



POLICE DEPARTMENT

August 24, 2009

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Yuseff Hamm
Tax Registry No. 928455
Housing Borough Bronx/Queens
Disciplinary Case No. 82152/06

Lieutenant Stephen Wong
Tax Registry No. 911422
Fleet Service Division
Disciplinary Case No. 82154/06

Sergeant Kwun Tso
Tax Registry No. 907476
Housing Brooklyn
Disciplinary Case No. 82155/06

The above-named members of the Department appeared before me on June 24, 2009, and June 25, 2009, charged with the following:

Disciplinary Case No. 82152/06

1. Said Police Officer Yuseff Hamm, while assigned to Vice Enforcement Squad, on or about April 13, 2006, at a location in Kings County known to this Department, knowingly entered or remained unlawfully in or upon the premises owned by Mr. Hui-Ru-Ruan. (*As Amended*)

P.G. 203-10, Page 1, Paragraph 5—GENERAL REGULATIONS
N.Y.S. Penal Law Section 140.05—TRESPASS

2. Said Police Officer Yuseff Hamm, while assigned to Vice Enforcement Squad, on or about April 13, 2006, at a location known to this Department, Kings County, having no right to do so nor any reasonable ground to believe that he had such right, did intentionally damage property of another person, known to the Department.

COURTESY • PROFESSIONALISM • RESPECT

N.Y.S. Penal Law Section 145.00(1)—CRIMINAL MISCHIEF – FOURTH
DEGREE

3. Said Police Officer Yuseff Hamm, while assigned to Vice Enforcement Squad, on or about April 13, 2006, at a location known to this Department, Kings County, with intent to obtain a benefit or deprive another person of a benefit, did commit an act relating to his office but constituting an unauthorized exercise of his official functions, knowing that such act was unauthorized.

P.G. 203-10, Page 1, Paragraph 5—GENERAL REGULATIONS
N.Y.S. Penal Law Section 195.00(1)—OFFICIAL MISCONDUCT

4. Said Police Officer Yuseff Hamm, while assigned to Vice Enforcement Squad, on or about and between April 13, 2006 and July 29, 2006, having taken property into custody, did thereafter fail and neglect to prepare a Property Clerk's Invoice worksheet (PD521-141a) as required.

P.G. 218-01, Page 1, Paragraph 3—PROHIBITED CONDUCT

5. Said Police Officer Yuseff Hamm, while assigned to Vice Enforcement Squad, on or about and between April 13, 2006 and July 29, 2006, did wrongfully engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said police officer failed to follow proper procedures related to the conversion of invoiced/seized property.

P.G. 203-10, Page 1, Paragraph 5—PUBLIC CONTACT – PROHIBITED
CONDUCT GENERAL REGULATIONS

6. Said Police Officer Yuseff Hamm, while assigned to Vice Enforcement Squad, on or about and between April 13, 2006 and July 29, 2006, did wrongfully engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said police officer used seized property without properly vouchering said property.

P.G. 203-10, Page 1, Paragraph 5—PUBLIC CONTACT – PROHIBITED
CONDUCT GENERAL REGULATIONS

Disciplinary Case No. 82154/06

1. Said Lieutenant Stephen Wong, while assigned to Vice Enforcement Squad, on or about April 13, 2006, at a location in Kings County known to this Department, knowingly entered or remained unlawfully in or upon the premises owned by Mr. Hui-Ru-Ruan. (*As Amended*)

P.G. 203-10, Page 1, Paragraph 5—GENERAL REGULATIONS
N.Y.S. Penal Law Section 140.05—TRESPASS

2. Said Lieutenant Stephen Wong, while assigned to Vice Enforcement Squad, on or about April 12, 2006, at a location known to this Department, Kings County, on seven (7) separate occasions, knowing that a written instrument contained a false statement and false information, and with intent to defraud the state and any political subdivision, public authority or public benefit corporation of the state offered and presented same to a public office, public servant, public authority or public benefit corporation with the knowledge or belief that it would be filed with, registered or recorded in or otherwise become a part of the records of such public office, public servant, public authority or public benefit corporation.

P.G. 203-10, Page 1, Paragraph 5—GENERAL REGULATIONS
N.Y.S. Penal Law Section 175.35—OFFERING A FALSE INSTRUMENT FOR
FILING IN THE FIRST DEGREE

3. Said Lieutenant Stephen Wong, while assigned to Vice Enforcement Squad, on or about April 12, 2006, at a location known to this Department, Kings County, on seven (7) separate occasions, swore falsely and when his false statement was made in a subscribed written instrument for which an oath is required by law and made with intent to mislead a public servant in the performance of his official functions and material to the action, proceeding or matter involved.

P.G. 203-10, Page 1, Paragraph 5—GENERAL REGULATIONS
N.Y.S. Penal Law Section 210.10—PERJURY IN THE SECOND DEGREE

4. Said Lieutenant Stephen Wong, while assigned to Vice Enforcement Squad, on or about April 13, 2006, at a location known to this Department, Kings County, having no right to do so nor any reasonable ground to believe that he had such right did intentionally damage property of another person, known to this Department.

P.G. 203-10, Page 1, Paragraph 5—GENERAL REGULATIONS
N.Y.S. Penal Law Section 145.00(1)—CRIMINAL MISCHIEF IN THE
FOURTH DEGREE

5. Said Lieutenant Stephen Wong, while assigned to Vice Enforcement Squad, on or about April 12, 2006, at a location known to this Department, Kings County, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said lieutenant on seven (7) separate occasions, knowing that a written instrument to be offered or presented to the Kings County District Attorney's Office contained false information, did allow said instrument to be presented to the Kings County District Attorney's Office and become a part of the records of said office. (*As Amended*)

P.G. 203-10, Page 1, Paragraph 5—PUBLIC CONTACT – PROHIBITED
CONDUCT GENERAL REGULATIONS

6. Said Lieutenant Stephen Wong, while assigned to Vice Enforcement Squad, on or about April 13, 2006, at a location known to this Department, Kings County, with intent to obtain a benefit or deprive another person of a benefit did commit an act relating to his office but constituting an unauthorized exercise of his official functions, knowing that such act was unauthorized, to wit: said Lieutenant took camera and computer equipment from the premises of 4214 8th Avenue alleged to have recorded images of an arrest made by said Lieutenant and his field team at that location the day before.

P.G. 203-10, Page 1, Paragraph 5—GENERAL REGULATIONS
N.Y.S. Penal Law Section 195.00(1)—OFFICIAL MISCONDUCT

7. Said Lieutenant Stephen Wong, while assigned to Vice Enforcement Squad, on or about April 12, 2006, at a location known to this Department, Kings County, on seven (7) separate occasions, swore falsely.

P.G. 203-10, Page 1, Paragraph 5—GENERAL REGULATIONS
N.Y.S. Penal Law Section 210.05—PERJURY IN THE THIRD DEGREE

8. Said Lieutenant Stephen Wong, while assigned to Vice Enforcement Squad, on or about April 12, 2006, at a location known to this Department, Kings County, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said lieutenant on seven (7) separate occasions allowed a false punishable written statement to be created when he knowingly made a false statement, which was memorialized in a written instrument presented to the Kings County District Attorney's Office. (*As Amended*)

P.G. 203-10, Page 1, Paragraph 5—PUBLIC CONTACT – PROHIBITED
CONDUCT GENERAL REGULATIONS

9. Said Lieutenant Stephen Wong, while assigned to Vice Enforcement Squad, on or about and between April 13, 2006 and July 29, 2006, having taken property into custody, did thereafter fail and neglect to prepare a Property Clerk's Invoice worksheet (PD521-141a) as required.

P.G. 218-01, Page 1, Paragraph 3—PROHIBITED CONDUCT

10. Said Lieutenant Stephen Wong, while assigned to Vice Enforcement Squad, on or about and between April 13, 2006, and July 29, 2006, did wrongfully engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said lieutenant failed to follow proper procedures related to the Department usage of invoiced/seized property.

P.G. 203-10, Page 1, Paragraph 5—PUBLIC CONTACT – PROHIBITED
CONDUCT GENERAL REGULATIONS

11. Said Lieutenant Stephen Wong, while assigned to Vice Enforcement Squad, on or about and between April 13, 2006 and July 29, 2006, did wrongfully engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said lieutenant used seized property without properly vouchering said property.

P.G. 203-10, Page 1, Paragraph 5—PUBLIC CONTACT – PROHIBITED
CONDUCT GENERAL REGULATIONS

Disciplinary Case No. 82155/06

1. Said Sergeant Kwun Tso, while assigned to Vice Enforcement Squad, on or about April 13, 2006, at a location in Kings County known to this Department, knowingly entered or remained unlawfully in or upon the premises owned by Mr. Hui-Ru-Ruan. (*As Amended*)

P.G. 203-10, Page 1, Paragraph 5—GENERAL REGULATIONS
N.Y.S. Penal Law Section 140.05—TRESPASS

2. Said Sergeant Kwun Tso, while assigned to Vice Enforcement Squad, on or about April 13, 2006, at a location known to this Department, Kings County, having no right to do so nor any reasonable ground to believe that he had such right, did intentionally damage property of another person, known to the Department.

P.G. 203-10, Page 1, Paragraph 5—GENERAL REGULATIONS
N.Y.S. Penal Law Section 145.00(1)—CRIMINAL MISCHIEF – FOURTH DEGREE

3. Said Sergeant Kwun Tso, while assigned to Vice Enforcement Squad, on or about April 13, 2006, at a location known to this Department, Kings County, with intent to obtain a benefit or deprive another person of a benefit, did commit an act relating to his office but constituting an unauthorized exercise of his official functions, knowing that such act was unauthorized.

P.G. 203-10, Page 1, Paragraph 5—GENERAL REGULATIONS
N.Y.S. Penal Law Section 195.00(1)—OFFICIAL MISCONDUCT

4. Said Sergeant Kwun Tso, while assigned to Vice Enforcement Squad, on or about and between April 13, 2006 and July 29, 2006, having taken property into custody, did thereafter fail and neglect to prepare a Property Clerk's Invoice worksheet (PD521-141a) as required.

P.G. 218-01, Page 1, Paragraph 3—PROHIBITED CONDUCT

5. Said Sergeant Kwun Tso, while assigned to Vice Enforcement Squad, on or about and between April 13, 2006 and July 29, 2006, did wrongfully engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said

police officer failed to follow proper procedures related to the conversion of invoiced/seized property.

P.G. 203-10, Page 1, Paragraph 5—PUBLIC CONTACT – PROHIBITED
CONDUCT GENERAL REGULATIONS

6. Said Sergeant Kwun Tso, while assigned to Vice Enforcement Squad, on or about and between April 13, 2006 and July 29, 2006, did wrongfully engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said police officer used seized property without properly vouchering said property.

P.G. 203-10, Page 1, Paragraph 5—PUBLIC CONTACT – PROHIBITED
CONDUCT GENERAL REGULATIONS

The Department was represented by Michelle Alleyne, Esq., Department Advocate's Office. Respondent Hamm was represented by Michael Martinez, Esq., Respondent Wong was represented by Marvyn Kornberg, Esq. and Respondent Tso was represented by Andrew Quinn, Esq.

The Respondents, through their counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

PRE-TRIAL MODIFICATION OF CHARGES

Prior to trial, the Department dismissed some of the charges in each of the cases. As to Disciplinary Case No. 82152/06, Specification Nos. 2 through 6 were dismissed, in Disciplinary Case No. 82154/06, Specification Nos. 2 through 4, 7, 9 and 11 were dismissed, and in Disciplinary Case No. 82155/06, Specification Nos. 2 through 6 were dismissed.

DECISION

Disciplinary Case No. 82152/06

Respondent Hamm is found Not Guilty of Specification No. 1. Specification Nos. 2 through 6 were dismissed upon application by the Department.

Disciplinary Case No. 82154/06

Respondent Wong is found Guilty of Specification Nos. 1 and 10; he is found Not Guilty of Specification Nos. 5, 6 and 8. Specification Nos. 2 through 4, 7, 9 and 11 were dismissed upon application by the Department.

Disciplinary Case No. 82155/06

Respondent Tso is found Not Guilty of Specification No. 1. Specification Nos. 2 through 6 were dismissed upon application by the Department.

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Detective Yong Lee, Detective Peter Cheregotis, and Sergeant Francis Teran.

Detective Yong Lee

Lee has been a member of the Department for 13 years. He is presently assigned to Police Service Area (PSA) 1. Prior to that assignment, he worked in Brooklyn South Vice (BSV) for three to four years. While at BSV, Lee functioned as both an investigator and an undercover. Lee said that prior to commencing an assignment at BSV, he would

be informed by the sergeant at a "tac meeting" of the particular function he would have for the day.

Lee acknowledged that he was working on April 12, 2006, and responded to a location that had previously been identified as a prostitution location. After reviewing documentation to refresh his recollection, Lee remembered that the premise he went to that day was 4214 8th Avenue. He stated that he was working with Respondent Wong, Respondent Tso, Respondent Hamm and Officers Augello, Childs and Cheregotis for that operation. He was assigned as an undercover.

Upon arriving at the premise, Lee testified that his assignment was changed to entry team, and Respondent Wong was designated the undercover. Upon making an entry to the location, Lee said that he, Respondent Tso and Officer Augello all entered. He described the premise as a commercial store front. Lee indicated that he maintained visual and audio contact with Respondent Wong when he went into the location; he was positioned about a half block away from the establishment and was linked with Respondent Wong by means of a "kel" and a Nextel radio.

About five minutes after Respondent Wong went into the premise, Lee recalled receiving notification from him to enter. He was told by Respondent Tso that Respondent Wong "got the agreement..." The entry team walked up to the location and found the door locked. They knocked on the door and said, "Police, open up," and an Asian man opened the door. That individual was taken to the side by someone on the entry team and Lee proceeded to the rear of the premise. Lee described the interior of the establishment as having a desk, women seated around a table, partitioned rooms with massage tables, a shower and a steam room. He was unsure if he saw Respondent Wong

upon entering the location. After the premise had been searched, individuals were taken into custody.

Lee could not recall if he personally removed any property out of the prostitution premise. He said that he would have to look at the voucher. He recalled that seven individuals were arrested at that location, half of whom were transported in a prisoner van and the other half by the local precinct. He specified that one male and six females comprised those arrested, and they were taken to the 72 Precinct. Lee also responded to the precinct where he was told by Respondent Tso that he was going to "take the arrest." Thereafter, he attempted to gather pedigree information concerning the defendants, however, none of them spoke English so Respondent Tso obtained the information from them in Chinese. Lee then began the arrest paperwork. He recalled that Respondent Wong was also in the precinct but he was unsure exactly where he was.

Eventually, Lee said that he conferred with Respondent Wong as to the circumstances of the arrest. He testified, "He informed me he was offered by the male defendant—he was offered the prostitutes. He was offered sex in exchange for money." Respondent Wong told Lee, "to put him (Wong) down as an undercover." He then completed the supporting depositions and sent them to the Early Case Assessment Bureau (ECAB) of the District Attorney's office. The following day he said he spoke with either a paralegal or Assistant District Attorney to draw up a felony complaint for promoting prostitution. During that conversation, Lee said that he relayed that he was "informed by the undercover...that he got agreement from the promoter that he was offered those girls for sex, for exchange of U.S. currency." Lee said that Respondent Wong did not say that he spoke to the women who were arrested for prostitution.

Lee recognized a complaint for the promoter, DX 2, sworn to by him and affirmed its accuracy. He also recognized a supporting deposition and complaint, DX 3, for one of the individuals arrested for prostitution. However, he did not recognize the first page of that exhibit. Lee clarified that DX 3 contains a supporting deposition pertaining to the arrest of Lei Man Li. Lee identified DX 4 as a supporting deposition that he completed pertaining to the arrest of Bing Li for a prostitution offense, specifically, "manual stimulation of penis in exchange for \$30 U.S. currency." Lee said that he checked one of the check boxes on the deposition for that arrest based on the information that he was provided by the undercover, Respondent Wong.

Respondent Wong never reviewed Lee's paperwork after they spoke regarding the circumstances of the arrests. Although he saw Respondent Wong the following day, April 13, Respondent Wong never asked him about the paperwork. Nor did he ask about the paperwork on any subsequent day. Lee agreed that he submitted the paperwork based on Respondent Wong's direction, and he used Respondent Wong's tax number on the supporting deposition to denote that he was the undercover.

On cross-examination by counsel for Respondent Wong, Lee indicated that Respondent Wong never told him that the females offered to perform a sexual act. Rather, he agreed that Respondent Wong informed him that a man offered the females to perform a sexual act on him. He further agreed that he called ECAB and had a conversation with a person in the screening room. After reviewing a complaint room screening sheet, RX A, Lee acknowledged that it contained what he told the ECAB personnel regarding the facts of the prostitution arrests that were made. He agreed that a

“male promoter” offered the services of the females, and not that the females offered their services individually.

No supporting deposition was filed for the arrest of Mr. Ruan. Lee said that he signed a complaint for that arrest, RX 2, and that he reviewed it prior to signing it. The complaint reflects the offer made to the undercover, “\$30 for a hand job.” Lee clarified that Mr. Ruan “offered the females” to perform the service, not that the females offered to perform the service. He said that he never had an opportunity to review the complaints annexed to his supporting depositions.

Lee was shown seven criminal court complaints, DX 3 through DX 9. In examining each of them, he affirmed that he never spoke to the preparers of those complaints, Officers Liza Dupont and Cheryl Myers. Nor did he ever tell them or the District Attorney’s office the facts that were contained in those complaints. He agreed that the criminal court complaints indicate that the undercover was approached by the females and offered a sexual act. Lee indicated that he never told anyone in the District Attorney’s office this. In actuality, he relayed to them what Respondent Wong told him—that it was a male who offered the females.

Lee claimed that he never saw the aforementioned criminal court complaints before he testified in this matter.

Lee had no recollection of having a conversation with Assistant District Attorney (ADA) Joshua Karlton. He also specified that he did not tell an ADA that the undercover had conversations with the male and never the females. No ADA called to ask about improprieties in the complaints and documents were unable to refresh Lee’s recollection

that he spoke to Karlton about the facts of the case. He said that he never had such a conversation.

On cross-examination by counsel for Respondent Tso, Lee acknowledged that the procedure at BSV was to conduct a "tac meeting" before commencing an operation. At the meeting, the locations to be targeted were identified many of which were "kited." Lee said that it was not unusual to deviate from the locations identified at the tac meeting, in fact, it was fairly common.

On redirect examination, Lee said that he completed the supporting deposition for the arrest of Bing Lee, DX 4. He stated that he indicated on that deposition that Bing Lee was arrested for prostitution based on what he was informed by the undercover. He also agreed that he checked a box on the deposition reflecting that Bing Lee "agreed or offered to engage in manual stimulation." This deposition was completed on April 12, 2006, the date of the actual arrest. Lee reiterated that Respondent Wong, the undercover, never checked his paperwork.

On re-cross examination, Lee indicated that he was never informed about a direct offer for services from the women. He reiterated that he was told that a man offered the women. Lee said that he checked a box on the deposition, and checked the box closest to the incident. He agreed that the check boxes set forth a basis for the arrest and not the facts.

Detective Peter Cheregotis

Cheregotis has been a member of the Department for almost 12 years. He presently works in Manhattan South Vice, and formerly was assigned to Brooklyn South Vice for about two years.

Cheregotis recollected that he was working on April 13, 2006 with Officer Childs, assigned to the prisoner van on that day. He remembered arriving at 4216 8th Avenue at some point, a gambling location. Cheregotis said that he knew he would be responding to that location at some point, as it had been discussed previously in a "tac plan." He recalled the members of his team that day included the Respondents and Officers Childs and Augello. He described 4216 as "a building attached to other buildings like a store front." At some point, Cheregotis said that he went inside the building in order to use the bathroom. He noted that he went to use the bathroom after the operation, and a notification already occurred over the radio that arrests had been made. Cheregotis said that Respondents Wong and Tso were the supervisors that day.

When he went to use the bathroom, Cheregotis said that he entered the premises through the front. Although he did not remember what the interior of the location looked like, he recalled the bathroom was in the middle of the store. After using the bathroom, Cheregotis testified that Respondent Tso asked him to check the rear of the premise to ensure that no one had left. Upon doing so, Cheregotis noticed a "door next door slightly ajar." He clarified that by next door, it was a different establishment than the gambling location, and knew it to be different because there was "cement separating the two doors so I'm assuming it's a separate location."

Cheregotis notified Respondent Tso about the open door. The two returned and entered to check for potential prisoners that might be hiding. No one else was with them when they made this check, and because it was dark, Cheregotis said that he stayed by the door while Respondent Tso cleared the location. No one was found and the two returned to the gambling location. Cheregotis and Childs then secured prisoners in the prisoner van and transported them to the 72 Precinct. He did not know if the remainder of his team also left at this point. Cheregotis did not complete any of the arrest paperwork or have any further contact with the prisoners.

On cross-examination by counsel for Respondent Wong, Cheregotis agreed that he was not part of the group that raided the premise. He did not enter until he had the need to use the bathroom. Upon entering the establishment, Cheregotis said that he saw a room, but could not recall with any specificity what was in that room. He recalled seeing Respondent Tso but did not recall if he saw Respondent Wong or anyone else. Similarly, he did not recall seeing any objects in the room. Cheregotis explained that the bathroom was in the same front room as the room in which he entered the premise.

Cheregotis did not recall who was in the front room when he emerged from the bathroom. He did not recall seeing any objects in that front room, nor did he know if a computer was there. He reiterated that he had a conversation with Respondent Tso in the front room and was told to check the back door. Cheregotis walked to the back door. He described the premise as one room with a bathroom to the right, and opposite the front door, there is another door leading to the alleyway in the back. Cheregotis said that he opened the door from the store that leads into the alley, and described the alley as "just an open yard." He did not recall if there was anything opposite this door or to the left of it.

He clarified that to the right, however, was the open door, about eight to ten feet from the door that he exited.

Cheregotis said that he did not notice any wires extending from the door that he exited and entered the premise through. Cheregotis reiterated that all he noticed was the open door on the right in the alley. He restated that he was with Respondent Tso and indicated that he did not break the lock to go into the door, it was ajar. Cheregotis testified that he entered about six feet, and his purpose for entering was not to commit a criminal trespass, it was for a police investigation. He agreed that he was looking for people that may have escaped from the gambling establishment. Cheregotis indicated that he has never been charged with committing any crime in entering the other location, and never got permission to enter that location.

While Cheregotis agreed that he felt it was good police protocol to enter the location and informed the Department Advocate of same, he was never interviewed by the District Attorney's office. He affirmed that he was interviewed by Internal Affairs and relayed to them his reason for entering—Department business and not to commit a trespass. Cheregotis testified that no search warrant was applied for and he did not believe one was needed.

Cheregotis reiterated that he went about six feet into the location. He acknowledged that he could not see anything because it was dark. He did not remember hearing any noises. After leaving the location, Cheregotis restated that he returned to the gambling parlor. He did not remember seeing Respondent Wong and said that he did not have any conversations with anyone thereafter. Cheregotis gathered the prisoners from

the gambling operation and put them into the prisoner van. He did not return to the other location.

On cross-examination by counsel for Respondent Tso, Cheregotis said that he entered to use the bathroom in the gambling location once the location was secure. He did not know if the prisoners had already been handcuffed when he went into the establishment. He recalled Respondent Tso being present inside. There was no conversation prior to the gambling operation that he would be entering the prostitution spot and it had never been discussed before.

Cheregotis said that he was not surprised by Respondent Tso's request for him to search the back of the gambling establishment. He agreed that it is a fairly common practice to check all exits at a scene to ensure that no perpetrators have escaped. Cheregotis did not see anyone exit the back door, and he believed that he was the first one checking that area. He acknowledged that the alley was not open to vehicular traffic. He could not recall with specificity the exact layout of the yard.

Upon walking out to the back, Cheregotis affirmed that adjacent to the door that he exited, he saw the open door. There were no numbers on the door that he exited or the door that he saw ajar; there were no identifiers indicating that the doors were part of any specific building. Cheregotis did not know where the open door led, nor did he know what was behind the door. Because he was concerned that someone may have fled the gambling location, he notified Respondent Tso who accompanied him into the back to look for potential arrestees. He agreed that there was nothing unusual about this.

The door was still in the same position when Cheregotis returned the second time. He reiterated that there were no lights on inside that location. He entered about six feet

into the premise and Respondent Tso entered significantly further. Cheregotis did not have a flashlight and did not remember if Respondent Tso had one. He indicated that Respondent Tso never mentioned anything about surveillance cameras, computers or that he was looking for evidence or surveillance cameras from the previous day's operation. The two were in the location for a minute or two before leaving and returning to the gambling location. Cheregotis never returned to the other location.

With respect to the prostitution operation the day before, Cheregotis was also assigned to the prisoner van. He was aware that a number of females were arrested, although he was not a part of the actual undercover operation. He arrived after the conclusion of the operation in order to secure the prisoners in the van. Cheregotis did not recall if a man was arrested that day. He said that no one on the team mentioned that the prostitution premise was equipped with surveillance cameras.

Cheregotis did not remember who exactly was working on the day of the prostitution operation. He reiterated that Respondent Tso never told him that the purpose of going into the prostitution location was to recover surveillance equipment and said, again, that it was his understanding that the location was being checked to ensure there were no potential arrestees therein. Cheregotis testified that the only thing that made him think that he may have been going into a different location was the fact that there was a "cement separation" between the doors of the locations. However, he was not sure and did not recognize that premise as the one that he had been at on the previous day. Cheregotis said that he never entered the prostitution premise during the previous day's operation.

On cross-examination by counsel for Respondent Hamm, Cheregotis said he worked in BSV for about two years. In that period, he worked with Respondent Hamm for about eight months and Respondents Tso and Wong for a longer time. At the time, the team comprised about eight members, all of whom worked the same shift together. He acknowledged that the environment on the team differed from a "patrol" environment; everyone worked as a team and tasks were divided up. It was also more informal in terms of rank. However, the unit was guided by the lieutenant and the sergeant, although they may not have used direct orders. He said, "...if [a supervisor] tells you to do something, you have to do it." Cheregotis agreed that at operations, the team supervisors told the team what to do, but not in a fashion where they issued orders.

Cheregotis agreed that tasks such as vouchering are guided by the lieutenant or the sergeant and he reiterated that everyone works together.

On the evening of the gambling operation, Cheregotis affirmed that he was assigned to the prisoner van. He agreed the only reason he went into the location was because he had to use the bathroom. He was not summoned to help inside of the location. While inside, he reiterated that Respondent Tso asked him to check the back and he did what he was asked to do. Cheregotis understood Respondent Tso's request as an order; not doing it was not an option.

Cheregotis believed that he was the person who discovered the door ajar, and agreed that it was significant. He was able to see that it was dark inside that area and went to report his findings to someone else for tactical and safety reasons. He reiterated that he returned to the open door with Respondent Tso, who took the lead and entered. Cheregotis assented that he did not know where he was, especially since he had not even

been inside that premise on the previous day. While he entered about six feet into the location, he said Respondent Tso went further in and he temporarily lost sight of him. Shortly thereafter, Respondent Tso returned.

Cheregotis testified that he does not believe Respondent Hamm speaks Chinese or a dialect thereof. He has never heard him converse in such a language either. Additionally, Cheregotis said that he never heard Respondent Hamm say that he wanted to get a computer or video. He agreed that no one entered the other location until he noticed the open door; it was his observation that led others on the team to enter the other location on the day of the gambling operation.

On re-cross examination by counsel for Respondent Wong, Cheregotis reiterated that he never entered the prostitution premise on the previous day. On the second day, when he exited the second location where the door was ajar, he did not hear anyone mention that location was the prostitution premise.

Sergeant Francis Teran

Teran is an 18-year member of the Department currently assigned to the Queens County District Attorney's Squad. Prior to his assignment there, he was assigned to Group 41 of the Internal Affairs Bureau (IAB) for 5-and-a-half years.

While at IAB, Teran was assigned a case involving the three Respondents herein. Specifically, he said he received the case at the "very end" and was "assigned the case to close it out." Teran testified that he learned from Respondent Wong, during an Official Department Interview, that he was using previously vouchered arrest evidence. Specifically, he had a television in his office as well as a fax machine. Additionally,

Teran relayed that he learned that Respondent Wong had given Detective Scotto, with whom he had a relationship, previously vouchered arrest evidence as well.

Teran testified that it is permissible for members of the Department to use previously vouchered arrest evidence. He indicated that there is a procedure whereby a commanding officer can request that property be converted. In turn, the Property Clerk's Office will usually convert the property enabling it to be used for Department use. Teran indicated that Respondent Wong did not follow the conversion procedure, however, he noted that under the Administrative Guide, the conversion procedure is the responsibility of the captain. Teran did not recall if Respondent Wong was asked in the course of the Official Department Interview whether or not he brought the property conversion issue to the captain's attention. Nor did he recall if Respondent Wong indicated whether he followed any procedures.

On examination by the Court, Teran believed that Respondent Wong provided Detective Scotto with a laptop computer. He was relying on the case folder for this information, and noted that he was assigned to close the case.

On cross-examination, Teran agreed that there is no Patrol Guide procedure for conversion of property, but that there is an Administrative Guide procedure which addresses it. He recognized the portion of the Administrative Guide for conversion of property (RX C), and acknowledged that according to this procedure, it is the commanding officer's responsibility. He believed that Captain Lombardi was the commanding officer of Respondent Wong's unit at the time. While Teran said that Lombardi was officially interviewed, he did not know if he received charges for not filing property conversion papers.

Teran said that he did not remember if Lombardi admitted in his official interview that he failed to file papers for conversion of property. When shown a memorandum to refresh his recollection, Teran said that the document had nothing to do with property conversion. Teran said he did not know if Lombardi filed papers for property conversion. He also did not know if Respondent Wong asked Lombardi to file the papers, and he did not know if Lombardi told Respondent Wong that the property in question had been converted.

The Respondent's Case

The Respondents testified in their own behalf.

Respondent Sergeant Kwun Tso

Respondent Tso has been a member of the Department for almost 15 years. Prior to his current assignment at Police Service Area (PSA) 2, he was a member of the Brooklyn South Vice (BSV) unit for almost five years where he worked as a sergeant and an undercover. Prior to this case, Respondent Tso had no disciplinary history.

Respondent Tso testified that at BSV, he supervised police officers and detectives who investigated matters such as gambling, prostitution and alcohol complaints. Respondent Tso indicated that in addition to English, he speaks Cantonese, and noted that the area in which BSV works has many establishments where potential perpetrators also speak Cantonese. This was the reason for his assignment to BSV.

On April 12, 2006, Respondent Tso recalled that he was working as a supervisor in BSV. His duties that day were to ensure the safety of undercover officers, the field

team, and process arrests and vouchers. At some point that day, an undercover officer, Respondent Wong, was sent inside of 4214 8th Avenue (4214). Respondent Tso had never been inside of that premise prior, although he noted that it was a "kited" location, known for prostitution. He affirmed that he was eventually notified by the undercover, Respondent Wong, of the fact that arrests were to be made inside of 4214 8th Avenue, and so, he directed a field team to go inside. Respondent Tso was not present during the initial investigation being conducted inside of the premise, but entered in conjunction with the field team.

Upon entering the premise, the field team and Respondent Tso made arrests. He recalled that six to seven people were arrested, one of whom was a man. Respondent Tso said he did not discuss the circumstances of the arrests with Respondent Wong; he was directed to make the arrests and in turn, directed the field team to handcuff the individuals and transport them to the precinct for arrest processing. Respondent Tso learned at a later point that the man who was arrested was Hui-Ru Ruan. The only conversation between Respondent Tso and Ruan happened in the precinct, subsequent to arrest, when he asked him for pedigree information. Ruan never discussed anything other than his pedigree information, nor did he register any complaints about the circumstances of his arrest.

On April 13, 2006, Respondent Tso recounted that he was working at BSV with Respondents Wong and Hamm, and Officers Cheregotis and Charles. That day, Respondent Tso was functioning as an undercover investigating a gambling complaint at 4216 8th Avenue (4216). Arrests had been made previously at this location. In detailing his actions that day, Respondent Tso testified that he was dropped off around 40th Street

and 8th Avenue, and proceeded to walk to the location which is a store front. He rang the doorbell and was subsequently "buzzed" in. Upon entering, Respondent Tso indicated that an Asian man opened an additional door which led to a room with 15 to 20 gambling tables. He noticed that people were gambling and when asked by someone why he was there, he told the person that he was there to play Mah Jong. Respondent Tso was informed that it would cost him \$100 to "buy in" to the game. While he did not recall the specifics of the game, he recollected that a player had to score points on the game, and a certain amount of money corresponded to a point. The "house" also took a certain amount of the cut. Respondent Tso also observed a man collecting chips from players, and at that point, went to the bathroom to notify his field team to come in.

Respondent Tso testified that in the past, he has made arrests for illegal gambling. He is familiar with activities which appear to be illegal gambling, and he indicated that in Asian communities, Mah Jong is a very commonly used tool in illegal gambling. Before April 13, Respondent Tso believed he made about 50 gambling arrests related to illegal Mah Jong games.

Subsequent to radioing his field team to enter, Respondent Tso said he locked himself in the bathroom. When he did not hear anything, he came out and noticed people trying to hide money. Apparently, the field team had been noticed outside, but the people inside the location would not unlock the front door. Respondent Tso explained that he decided to identify himself as a police officer and have the door opened so that the field team would not break down the glass door and possibly get hurt. After apprising the field team of the circumstances, two men were arrested.

Respondent Tso affirmed that Cheregotis was part of the field team. At one point, he told Cheregotis to check the back of the premise to ensure that no one was hiding there. Cheregotis reported back to Respondent Tso and told him that there was a door ajar in the back. He and Cheregotis returned to the back, where he then noticed a room with kitchen equipment, such as a stove and a commercial refrigerator. Respondent Tso clarified that he discovered that it was not a traditional room; he testified, "Like in the backyard they build like—they build a room, like a hutch over it. Actually at the time I thought I went into a room." He said a plastic tarp like cover had been placed on this "room," which was actually outside of the gambling location although he initially believed that it was part of the building. Adjacent to the gambling location, Respondent Tso saw the partially open door that Cheregotis had previously noticed. He dispatched Cheregotis to get a flashlight, who returned shortly thereafter saying that he could not find one.

Respondent Tso testified that he could not recall if he or Cheregotis entered the room first. He did remember that he asked Cheregotis to stand by the door just in case anything happened, so that they would be able to find their way out of the very dark room. Respondent Tso walked very slowly into the room, while looking downwards, so as not to trip. When he did not see anything or anyone, he turned around and walked out. However, he did hear machine-like noises in the room, and at the time, believed someone was hiding inside. Respondent Tso said he had no flashlight or other means of illumination to conduct a thorough check. He proceeded to report his observations to Respondent Wong, and testified, "I said lieutenant lets open the door next door I heard a noise it's possible someone is hiding in there. I told him that and he told me that all right,

I would go check it out later and he also told me you have to go outside because we made appointment with the girls..." Respondent Tso explained that his unit was also conducting a prostitution operation, at the same location, which had been setup via the "Craigslis" internet personals site. That operation was successful and resulted in several arrests of both men and women.

Later that day, on April 13, after the arrests had already taken place, Respondent Wong told Respondent Tso that he wanted to show him something. Respondent Tso testified that he followed Respondent Wong through the back door of 4214 8th Avenue, through the kitchen. He recognized it as the massage parlor that he had been present at the previous day, April 12. Respondent Wong noticed wires coming through the wall, although Respondent Tso testified that he did not know where the wires were coming through. Upon walking "over by the door," Respondent Tso testified that he believed Respondent Wong noticed a surveillance camera on the wall and asked him to take it down. He indicated that the camera was in 4214 8th Avenue, the prostitution location from the day prior. Respondent Tso complied with Respondent Wong's request, removed the camera, gave it to Officer Charles and instructed him to voucher it, a voucher that Respondent Tso said he later endorsed. He did not recall if any other property was vouchered.

Respondent Tso testified that his purpose in entering the location with the adjacent door was to look for additional perpetrators, and because he suspected that someone was hiding inside. He never determined if anyone was, in fact, hiding in that location. The second entrance into that location was with Respondent Wong, when he removed the surveillance camera, in order to secure it for evidence.

On the day of the gambling arrests, April 13, Respondent Tso testified that no one informed him of any problems with the previous day's arrests. Nor did he receive any information that the April 13 prostitution arrests were improper. All of the evidence obtained at the prostitution spot was vouchered.

Respondent Tso indicated that he was arrested and charged with burglary for his actions on April 13, the day that the surveillance camera was removed. That matter never went to trial; the charges were dismissed from State Supreme Court.

On examination by Respondent Wong's counsel, Respondent Tso affirmed that Respondent Wong served as the undercover on the day of the prostitution arrests. After he gave a signal, Respondent Tso responded to his location. Respondent Tso was unsure if Respondent Wong was still inside upon his arrival but recollected that at one point, he called him over the radio. Respondent Tso agreed that he would not have been calling Respondent Wong via the radio if the two were standing next to each other; he indicated that it was possible he was not present.

On the second day, upon entering the location through the hutch, Respondent Tso stated that because the lights were off, he was unaware that the location was where the prior day's prostitution arrests had taken place. He only realized it when he entered the second time, as the lights were on. On this second entrance, he entered with Respondent Wong. Respondent Tso reiterated that in walking through the back door, through the hutch, he was unable to tell that he was in the same location as the previous day.

Upon entering the location with Respondent Wong, Respondent Tso affirmed that he was shown wires, but admitted that he never saw any videotape or pictures on any recorder, camera or computer prior to entering with Respondent Wong. Respondent Tso

said that he later learned that a computer was removed from the location, but he was unsure of who removed it. He reiterated that he removed the camera, and not Respondent Wong.

On cross-examination, Respondent Tso agreed that five of his 15 years with the Department were spent as a sergeant and undercover in BSV. He has worked as both a supervisor and an investigator. He agreed that as a supervisor, he delegates duties and ensures that subordinates are aware of their assignments and perform them well.

Respondent Tso affirmed that he is familiar with Department procedures in the Patrol Guide pertaining to invoicing and vouchering property. In the 50-plus gambling related arrests that he participated in, he said property was sometimes recovered, and then vouchered by the arresting officer. As a supervisor, Respondent Tso said that he would check the voucher, including the address, and then sign it. He denied that his job is to specify the address where the property is vouchered, he said, "...the AO put down the address my job is to identify all the items on the vouchers listed and accounted for and I put a command [log] entry and that is it." Respondent Tso again said that he reviews the items on the voucher and ensures that they are accounted for, and pointed out that an arresting officer's signature is also on the voucher. When asked if he examines the address listed on the voucher to ensure that it corresponds with where the property was seized, he said he would not be able to answer the question without seeing a specific voucher. Similarly, Respondent Tso said that he could not answer as to whether he generally checks the address on a voucher without seeing a voucher because a voucher calls for two addresses.

On April 13, 2006, Respondent Tso affirmed that he was working as an undercover at the gambling operation and at some point, asked the field team to respond to the location. Subsequently, he believed two people were arrested. He did not remember if the two arrestees were immediately taken outside, and did not recall how many field team members were present, although he believed it was the whole time. Although Detective Cheregotis and Officer Childs were assigned to the prisoner van, they came into the location prior to the arrests. He did not remember if Cheregotis came into the location to use the bathroom.

At some point, Respondent Tso asked Cheregotis to check the rear of the location. He believed that arrests had already been made by the time he asked Cheregotis to make this check, and affirmed that he reported a door being ajar, adjacent to the gambling location. Respondent Tso indicated that because he heard noise coming from the area where the door was ajar, he believed that someone had fled the gambling location and was hiding. He reiterated that he could not see due to the lack of lighting and stayed in this adjacent area for a minute or two. The noise that he heard was a machinery-type noise, and he was unable to tell where it was coming from. Thereafter, he exited this location to confer with Respondent Wong, who told him to prepare for the Craig's List operation. He was unsure if, at that point, Respondent Wong proceeded to the rear of the gambling location to check the open door. When he went outside for the Craig's List operation, Respondent Tso said he went across the street, to the corner of 41st Street and 8th Avenue.

Eventually, Respondent Tso returned to the gambling location. At that point, the individuals who had been arrested for illegal gambling were in the prisoner van.

Respondent Tso was unaware if the gambling operation had been completed, and he did not recall who was still in the gambling location when he went back inside. He believed that Respondent Wong and an officer may have been present. Respondent Tso testified that Respondent Wong asked him to accompany him to the massage parlor next door, and he realized that it was the massage parlor because the lights were on. This second entrance into this location was to secure evidence, as Respondent Wong had discovered wires through the wall from the gambling location at 4216, into the massage parlor at 4214. Respondent Tso denied that Respondent Wong expressed concern over a camera that may have recorded the previous day's operation. He specified that he took the camera down because he was given an instruction to do so by a supervisor.

Respondent Tso acknowledged that a computer was also seized, however, he stated he did not take it, nor did he recall who did. He reiterated that he only seized a camera, from the massage parlor at 4214. He was unsure where the computer was taken from. Respondent Tso agreed that he looked at the vouchers completed on April 13, but could not confirm if gambling related items were also seized. He further agreed that the vouchers were completed by Officer Childs and signed by him.

Respondent Tso examined two property clerk's invoices, DX 10 and 11. He identified DX 10 as having a number of N-130449, listing the following items as being confiscated: two cameras, five keys with key rings, two dice, two Nextels phones, two phone batteries, chips, Mah Jong tiles, a business card and one IBM computer. This invoice was dated April 13. Respondent Tso was unable to determine the exact address that the items were seized from. He indicated that the remarks portion of the voucher reflected that the items were "taken into custody as arrest evidence. [Security envelope]

number...C-531947.” When asked if he completed a separate voucher for the camera that he seized, Respondent Tso indicated that the arresting officer prepared the vouchers. He admitted that he saw no separate voucher for the camera, and testified that it “has to be” reported on the voucher ending in 449. He then indicated that he would have to see the cameras, and remarked, “How do you know which camera I recovered or maybe the IAB took the vouchers separately and they lost it, you don’t know.”

Respondent Tso reaffirmed that on April 13, he seized one camera from the 4214 location, the massage parlor. He denied recovering any camera from 4216, the gambling location, and claimed to be unaware if a camera was seized there. He admitted that he examined the arresting officer’s vouchers later in the day, DX 10 and 11, and signed them both.

Upon entering the massage parlor the second time, with Respondent Wong, Respondent Tso did not recall if he heard any machine noises. He did not recall if he saw any other people at that location, nor did he recall observing any unlawful acts there that would warrant an arrest. Respondent Tso testified that he was unaware if anyone was at that location, noting that his experience has shown that sometimes people can hide in trap doors. He stated that Respondent Wong showed him wires, they walked through the location, “and that was it.” He denied that he conducted a search, and claimed that it was a “walk through” where they “walked in and out.” They were present in the location for a few minutes.

Later on in the day on April 13, Respondent Tso learned that a few computers had been seized, although he was unsure of who took them. Upon inquiry by the Court, he indicated that he first learned about the computers when he signed off on the voucher on

which they were reported. Respondent Tso was unable to provide particulars as to what tour he worked on April 13, although he believed it was a 4:00 pm to 12:00 am tour, and specified that he probably first entered the gambling location during the evening. He had no recollection as to the second time he entered the 4214 location. Respondent Tso said that the property vouchers were prepared after arriving at the precinct by Officer Childs. He did not recall what time he signed the vouchers and indicated that he would need to see his daily activity report to provide precise times.

On continued cross-examination, Respondent Tso acknowledged that once he seized the camera, he returned to the gambling location. He was then assigned outside of the location in case anyone came to the door so that he could notify the field team. He did not recall where the seized evidence was taken or who transported it, nor did he recall how long he spent at the scene to deal with the Craig's List operation.

The Craig's List operation was based out of 4216, the gambling location, and yielded several arrests. For that operation, Respondent Tso testified that the undercover was outside, and "... [The defendants] would come up and the undercover made the deal." He did not recall if the inside of the location was used.

On redirect examination, Respondent Tso testified that the voucher ending in 449, DX 10, shows two cameras. That document does not identify where the property was seized from. Respondent Tso indicated that when he reviewed and signed this voucher, prepared by Officer Childs, it was accurate.

On continued examination by counsel for Respondent Wong, Respondent Tso agreed that the invoice ending in 449 reflects an IBM computer. He further agreed that

the invoice ending in 450 reflects a computer tower, separate and apart from the IBM computer.

On examination by counsel for Respondent Hamm, Respondent Tso agreed that Craig's List is a website frequently used by prostitutes. Accordingly, it is easy to use this website to facilitate meetings between undercover officers and prostitutes. He also agreed that in some instances, in an effort to multi-task, Craig's List operations will be setup in conjunction with other operations that are being conducted. As for April 13, 2006, Respondent Tso agreed that a gambling operation was being conducted, but that in an effort to work efficiently, a Craig's List operation was also setup for the same location. There was no connection between the Craig's List operation and the gambling operation; the location was used because it is not a police facility, and it enabled productivity.

Respondent Police Officer Yuseff Hamm

Respondent Hamm is an eight year member of the Department assigned to Police Service Area (PSA) 9. He was assigned to modified duties in July of 2006 as a result of the charges in this case. He has no prior disciplinary record.

Respondent Hamm testified that he was previously assigned to Brooklyn South Vice (BSV), and worked there for 17 months. He said he was a month away from being promoted to detective, however, this promotion never occurred as a result of this case. Prior to being assigned to BSV, Respondent Hamm worked at the 26 Precinct. He has made over 250 arrests in his career. While assigned to BSV, Respondent Hamm said that he was both an undercover and an investigator addressing prostitution, gambling, alcohol,

club violations and quality of life issues. He was supervised by Respondent Tso and Respondent Wong his entire time while at BSV, and explained that the members of this command worked in a "friendly atmosphere," however, rank was respected. There was never an occasion for Respondent Hamm to be disciplined by Respondents Wong or Tso, nor did he ever disobey any orders from them. He was never informed that there was a problem with the way that he performed his duties. Respondent Hamm characterized Respondents Wong and Tso as "really good" supervisors.

Respondent Hamm affirmed that he has endured this case for over three years. He was required to make many trips to Criminal Court when he was indicted. During the criminal court proceedings, Respondent Hamm learned much about this case through the proceedings.

On April 12, 2006, Respondent Hamm recalled that he was working with Respondent's Wong and Tso, from 3:00 pm to 11:00 pm. Some time that day, they responded to 4214 8th Avenue, a massage parlor. The Respondents had received information about that location via a "kite," information from the community or intelligence. While assigned as part of the arrest team, Respondent Hamm received a notification over a Nextel phone to respond inside the massage parlor. He proceeded inside, secured a back area with another officer, and then assisted in making arrests. He was not designated as the arresting officer that evening. Upon completion of the arrests, the prisoners were transported to the 72 Precinct.

Respondent Hamm testified that upon arriving at the precinct with an arrest, the team has a variety of different tasks to complete. He specified that the prisoner is first lodged, then the arrest is typed up, vouchers are prepared and property is secured.

Specifically speaking, on April 12, Respondent Hamm said that he lodged the prisoners and then received money from Respondent Tso for food for the team. Thereafter, he traveled to a Kentucky Fried Chicken, picked up food and returned to the precinct. He had no other duties aside from lodging the prisoners and obtaining food. Prior to ending his tour that evening, Respondent Hamm said that he transported prisoners to central booking.

On April 13, 2006, Respondent Hamm affirmed that he was working as an undercover investigator. He responded to 4216 8th Avenue, another kite location, known for gambling. Respondent Hamm said that while he worked as an undercover at that location, he was not undercover for purposes of the gambling operation. He explained that he utilized the Craig's List website to facilitate meetings with prostitutes at the location. This had nothing to do with the gambling operation, for which Respondent Hamm was assigned to the field team and Respondent Tso the undercover.

At some point, Respondent Hamm said he received a communication from Respondent Tso that he should move in to the gambling location. Upon doing so, Respondent Hamm noticed that the location had a front door, leading to a "little store," followed by a second door leading to the gambling parlor. While the team was able to get past the first door, they had to wait for the second door to be opened. Once the second door was opened, Respondent Hamm saw a number of people inside the gambling location. In addition to Respondent Tso, Respondent Wong was also present as the supervisor. Respondent Hamm secured the door, and once that was completed he began to prepare for the Craig's List operation. He contacted individuals with whom he had

already spoken to and invited them to come to the gambling location; three or four people responded.

While at the 4616 location, Respondent Hamm recalled that he had a flashlight with him, and that at some point, Respondent Wong summoned him. He proceeded with him through the back door of 4616, went to the right (the adjoining building), and was apprised by Respondent Wong about an open door. Respondent Hamm testified that he drew his firearm, put his flashlight on and proceeded inside that location. He described the door as being opened and he recognized it as "the same door" that had been secured the day prior, in the massage parlor. He noted that this made him suspicious.

Upon proceeding through the door, Respondent Hamm said he saw a shower that was on, and a bank of open lockers. He recalled that on the previous day, these lockers were all closed. Respondent Hamm indicated to Respondent Wong that he believed someone was or had been in this premise. He also heard the tumble of a dryer coming from downstairs. No one was found to be in this location, however, and Respondents Hamm and Wong left. As for the rest of his tour, Respondent Hamm continued with the Craig's List operation and made three or four arrests. He had no other responsibilities or duties that night pertaining to the gambling operation.

Respondent Hamm testified that later on at the precinct, he assisted with arrest processing and fingerprinting duties. He indicated that he does not speak Chinese or any dialects thereof.

None of the defendants who were arrested on April 12 spoke to Respondent Hamm, nor was he advised about computers or cameras. He indicated that no one from his team ever mentioned any problems with the prostitution arrests. The following day,

April 13, Respondent Hamm said he did not hear anyone say that they had to return to the massage parlor to get cameras or computers. Returning to the massage parlor was not part of a plan.

With respect to the man who was arrested on April 12, Respondent Hamm testified that he lodged him but did not speak to him. He was not sure if he spoke English. Respondent Hamm said he was the only African American male on his team and that the criminal charges against him were dismissed.

Upon examination by counsel for Respondent Wong, Respondent Hamm agreed that on April 12, Respondent Wong was no longer inside the location when the arrest team moved in. Nor was Respondent Wong present during the search of the back of the building on April 12, because he was functioning as an undercover. On April 13, when Respondent Hamm pointed out that the lockers which had been closed the day prior were now open, he agreed that Respondent Wong was not present on the day when he saw the closed lockers. Additionally, Respondent Hamm said he knew that the door to the second location was that of the prostitution arrests because he had went through that same door on the day before. He noted that he went through that door with Officer Legano and not Respondent Wong.

On cross-examination, Respondent Hamm indicated that he participated in placing people under arrest during the April 13 operation. He did not escort these people to the prisoner van, he believed that Officer Childs and Detective Cheregotis did so. As for the Craig's List operation, Respondent Hamm acknowledged that by the time he had made his three to four arrests, the gambling arrestees were already in custody. Similarly, by the time Respondent Wong approached him, those arrested for gambling had been

taken to the van. He did not believe any other patrons were still in the gambling location at that point.

Respondent Hamm affirmed that when Respondent Wong summoned him to accompany him with his flashlight, he did as instructed. Thereafter, he left the 4216 location, proceeded to the rear, out into the backyard and to the next door location. He agreed that he immediately recognized this next door location as the massage parlor from the previous day. While the door to that location was ajar, it was "open enough that you could look in," however, a flashlight was needed. He reiterated that he heard a shower and machinery running upon entering.

No one was apprehended in the massage parlor, nor did Respondent Hamm see anyone when he first walked into the area where the shower was running. Similarly, he did not see anyone downstairs near where the laundry machine was running.

Respondent Hamm agreed that he was present at the prostitution location on April 12 and checked many rooms there. He claimed that he did not check those same rooms when he returned on April 13, specifying that what he checked was the shower and another area that he heard sounds coming from. He reiterated that he expressed to Respondent Wong his belief that someone was hiding in the location because of the open lockers. Respondent Hamm did not make any further checks inside of 4214, and both he and Respondent Wong left together by walking out the door they had previously entered. They did not see any civilians in the backyard and they returned to the gambling location.

Respondent Hamm acknowledged that he learned that a computer had been seized during the gambling operation because he saw someone carrying it. He does not know why the computer was taken. He admitted that on April 13, during the gambling

operation, Respondent Wong told him that he saw pictures on a computer of the April 12 operation. Respondent Hamm indicated that he was not advised by Respondent Wong that he needed to seize the computer based on what he saw. He reaffirmed that he saw someone carrying a computer from the 4216 location on April 13.

On examination by the Court, Respondent Hamm indicated that he learned from Respondent Wong that he saw pictures from the previous day's operation. He learned about this after entering the rear of the prostitution location on April 13. Inside that location, he heard the shower on but not fully running.

On continued cross-examination, Respondent Hamm said that the team was at the 4216 location until about 11:00 pm. They had been there since 7:00 pm.

On re-examination by counsel for Respondent Wong, Respondent Hamm admitted that he was not sure if the computer that he saw was from the gambling or the prostitution location. He acknowledged that Respondent Wong told him about images on a computer from the prior day's operation, after he and Respondent Wong had entered the prostitution location. Respondent Hamm specified that he entered the prostitution location at Respondent Wong's direction, and noted that he did not see him look for any computers. They both left that location simultaneously and he was later told about the pictures on the computer from the gambling venue, depicting the previous day's activities.

On examination by counsel for Respondent Tso, Respondent Hamm believed that Respondent Wong told him about the images on a computer after he had seen it being removed. He agreed that he saw the computer being removed, then had a conversation

with Respondent Wong who explained it was being removed because of images from the previous operation.

Respondent Lieutenant Stephen Wong

Respondent Wong has been a member of the Department for about 17 years. He previously held the ranks of sergeant and police officer.

On April 12, 2006, Respondent Wong said that he was functioning as a supervisor and undercover, and his team consisted of Respondent Tso, Respondent Hamm, Officers Augello and Childs, and Detectives Lee and Cheregotis.

Acting in an undercover capacity, Respondent Wong testified that he entered a premise at 4214 8th Avenue in Brooklyn. A "kite" had previously been received for this location. Respondent Wong said that he entered this location as a "John" going into a prostitution location. He was wired for audio, with a "Kel" and a Nextel phone as a backup. In order to enter the location, Respondent Wong said he rang the bell and the door was answered by Mr. Ruan. He inquired of Ruan the cost of a massage and received a price. He also asked Ruan if he could get "anything extra" and Ruan told him that "for \$30 extra any of the girls can you know...a [hand] job." Respondent Wong said he observed girls there, some of whom were dressed and others half dressed wearing towels. Respondent Wong told Ruan that he was going to the bank to get money, and Ruan said "okay, come right back." He specified that he stood at the doorway of the location when he told Ruan this. The field team was then signaled to advise them that an agreement had been made. Respondent Wong said that he did not go into the premise

before he called the field team, and it was only after the prisoners had been brought out that he returned.

Respondent Wong testified that none of the prisoners saw him. By the time he returned to the location, the prisoners were already in the van. Upon returning to the location, Respondent Wong observed rooms divided into smaller rooms with massage tables in each room. Based on his experience, he felt that the premise "was definitely a pros[titution] location." Various items were also seized at this premise and documented on property vouchers, RX D, by Detective Lee, the arresting officer. These items included condoms and KY Jelly. Respondent Wong and Detective Lee did not have any conversations at this premise.

Upon returning to the 72 Precinct, Detective Lee was designated the arresting officer. Respondent Wong said that Respondent Tso supervised the matter. In conversing with Detective Lee about what transpired at the location, Respondent Wong said, "I told him I rang the bell I went inside I made an agreement with the owner whose name we later learned to be Mr. Ruan. I told him what the agreement was that I only spoke to the owner and he offered all girls in the location." He never told Detective Lee that he had a conversation with the girls, and he never read or signed any supporting depositions. Additionally, he said that he did not designate anyone to sign his undercover (U.C.) number on any depositions.

Respondent Wong affirmed that he and Detective Lee had a conversation where he told Detective Lee to "put me down as the undercover in all the paperwork that I spoke to the owner and he offered the girls." Subsequently, Respondent Wong said he left the 72 Precinct and went to his office a few blocks away to do some paperwork

before going off duty. Respondent Wong said that the prisoners were taken to the 72 Precinct and the paperwork and vouchering was done there as well. He did not remain at the precinct while the paperwork was being prepared and did not have any conversations with Detective Lee or anyone else about the arrests when he returned to his office.

The following day, April 13, pursuant to a "kite," a team was going to 4216 8th Avenue, a gambling location. Up to this point, Respondent Wong had no indication that there were any problems with the affidavits in the prostitution case, nor were there any indications that the District Attorney's office had drafted a complaint that he had spoken to the girls individually. Additionally, there was no indication that something was wrong that would require Respondent Wong to go to a location and seize evidence to "cover up anything" incorrect.

At the gambling location on April 13, Respondent Tso was the undercover. Upon receiving a signal from him, the team went into the location and made two arrests. Upon entering the location to make the arrests, Respondent Wong was unaware of the existence of a computer or cameras in either the prostitution or gambling venues.

Because the back door of the gambling location was open, there was a suspicion that someone ran to the back. Respondent Wong said that he learned the door was open when Respondent Tso told him, and informed him that because they did not have a flashlight they could not search the entire location. At this point, he did not know that the prostitution location was next door and did not know if anyone had gone next door to check if someone was there.

Respondent Wong testified that he went next door. He explained that he went "out to the back I saw what Sergeant Tso told me the door was open. When I walk[ed]

out to the back I saw like an outdoor kitchen all setup like a kitchen with a canvass over it that almost connects the two doors.” This outdoor kitchen did not connect any doors or locations other than those two. Subsequently, Respondent Wong instructed Respondent Hamm to accompany him into the adjoining location; Respondent Hamm had a flashlight. Upon entering that location, Respondent Wong said that he heard water dripping. He noted that he had his firearm drawn because he did not know if anyone was hiding there, Respondent Tso did not specify if he had previously searched that location. The lighting conditions inside of the location were “very dark.” Eventually, a light switch was located and the interior lights turned on. Respondent Wong then noticed little open locker compartments and massage tables in a messy room. It was at this point, Respondent Wong said, that he realized he was in the same location that he had been in on the previous day.

In the basement of the location, Respondent Wong said that he saw a dryer tumbling, another massage table, and towels. He did not see a camera, a computer or wires in the basement. However, when he left the basement to go upstairs to the “living room” he saw wires on the wall going into the ceiling and to the gambling location next door. Respondent Wong and Respondent Hamm then left.

Respondent Wong stated that he went to the gambling side to investigate. He determined that the wires came back to the gambling side and were connected to a computer on a desk in the gambling location. He also noticed a portable hard drive and was informed by Officer Childs that she had previously seen a defendant trying to hide it. Respondent Wong proceeded to attach the portable hard drive to the computer on the desk and he saw a picture of himself and Respondent Tso from the previous day’s

prostitution operation. This made him "very disturbed" because he claimed that they were "the only Chinese undercover[s] in the entire NYPD vice division." Hence, he felt that it was a safety issue to the extent that if pictures of he and Respondent Tso were seen, they could be seriously hurt or identified during operations. He said that it was very possible that other locations now had his picture, and so, he made a determination to seize the item. Respondent Wong felt that if he did not, he and Respondent Tso's safety could be in jeopardy.

In tracing the wires from the gambling location back to the prostitution location, Respondent Wong saw a computer. Respondent Tso accompanied him during this, and he testified, "We went back next door and seized that computer which was connected to the gambling location and we followed the wire from the prostitution computer to the camera actually linked to the camera in that location." Respondent Tso seized the camera. Respondent Wong directed that the computer be vouchered, but he did not recall who vouchered it. He stated that the camera and computer taken from the prostitution venue were "absolutely" vouchered. He denied that the camera and computer were taken for the purpose of concealing the previous day's activities. Respondent Wong testified that the purpose of taking the camera and computer in the gambling location was to "secure our safety." The items were vouchered that day.

In examining DX 10 and DX 11, Respondent Wong affirmed that DX 10 reflects two cameras being seized, one of which was from the prostitution premise. This voucher also shows an IBM computer being seized, also from the prostitution location. Respondent Wong specified that the computer listed on DX 11 was seized from the

gambling location. Although he never personally filled out any vouchers, he directed that the items be properly vouchered, and they were.

Regarding the charge of failing to follow the proper procedure for using seized property for Department use, Respondent Wong testified that it is a commanding officer's responsibility to ensure that such property is converted. He recalled a conversation with his commanding officer concerning a laptop computer in approximately January of 2006. Specifically, he recounted that he asked the captain to convert this laptop, property previously seized in an unrelated operation to the one herein, so that it could be used for Departmental business. Respondent Wong said that he wanted to use the laptop to enter "kites" and keep track of cases and complaints made to Brooklyn South Vice. Respondent Wong gave the laptop to Detective Scotto, and he agreed that her Official Department Interview reflected that she used it for Department purposes. Respondent Wong indicated that it was not his responsibility to file papers to convert this piece of property; he understood it to be his commanding officer's responsibility. During his Official Department Interview, Respondent Wong recalled being questioned about the use of converted or non-converted property. He claimed he was not asked in that interview if there was anything else he wanted to add.

On cross-examination, Respondent Wong affirmed that he has been a member of the Department for 17 years. He acknowledged that on April 12, 2006, he was not only a supervisor at Brooklyn South Vice (BSV), but also an investigator, undercover, and the command's Integrity Control Officer (ICO). In his duties as ICO, he said he reviewed overtime reports and paperwork to ensure completeness. He indicated that he was the ICO the entire time he was at (BSV).

On April 12, 2006, Respondent Wong acknowledged that he was the undercover at the prostitution location. He made an arrangement with the owner for sex for a fee, and explained this arrangement to Detective Lee, the arresting officer. He never told Lee that the girls at that location offered sexual acts themselves. Respondent Wong reiterated that he never signed any supporting depositions, nor did he read or review any. However, he told Lee to list him as the undercover on the arrest paperwork, but not to sign his UC number. As a supervisor, Respondent Wong said that he never fills out arrest paperwork, but agreed that he did so as a police officer. He indicated that depending on the kind of arrest, a supporting deposition may or may not be involved. He affirmed that a supporting deposition is necessary for prostitution arrests, and these depositions would include the tax registry number of the undercover involved.

Respondent Wong agreed that he did not review the supporting depositions, nor did he ever read them. He specified that he never told Detective Lee to sign his undercover number. Respondent Wong testified that he never went to Detective Lee in order to affix his tax number on the depositions. The following day, April 13, he did not believe he saw Detective Lee although he did not look for him. He never contacted the District Attorney's office to locate the depositions to sign. Respondent Wong agreed that he never saw the depositions until the case against him, some three months after the prostitution arrests had been made.

During the April 12, 2006 operation, Respondent Wong reiterated that he did not recall seeing a computer inside the prostitution premises. He recalled an Official Department Interview of him by Group 41 of IAB, and was provided with a transcript of same to refresh his recollection. After reviewing this transcript, he recalled that he did

see a computer on April 12 at the prostitution location, in the living room area, on a desk or table. He agreed that the computer was not seized on this day, although he did not recall stating at his interview that he did not believe, at the time, that the computer could have been seized. In response to the Court, Respondent Wong indicated that he did not seize it on April 12 because he did not think it was relevant. After looking at the transcription of his January 4, 2008 Official Department Interview, Respondent Wong testified, "I didn't think it was relevant. At the time I didn't think there was any reason to take [the computer]."

The following day, Respondent Wong agreed that his team went to the gambling location at 4216. He recalled that the prostitution premise was located at 4214, and recalled that on the day prior, he viewed the prostitution location as a building adjoined by another building. He denied knowing on April 12 that the next door building was 4216. On April 13, Respondent Wong said that he was a supervisor and arrived at 4216 in front of the building. He agreed that the front of the premise displayed the numbers "4216," and that 4214 was next door, but he did not remember if that particular building displayed any numbers. Although he admitted that on April 12, he looked at the façade of 4214, the following day, when he went to 4216, when asked if he noticed that the two buildings were adjacent, Respondent Wong said, "I wasn't paying attention to that."

Respondent Wong acknowledged that he looked at the vouchers from the gambling operation, DX 10 and DX 11, reflecting the evidence seized on April 13, 2006.

Respondent Wong stated that the person arrested on April 12 for prostitution was not the same person arrested on April 13 for gambling. He did not remember if the individual arrested on April 13 was Chi Chong. He testified that the name of an arrested party should be listed on a voucher, and he recalled that six people were arrested on April 13, including two gentlemen for gambling. Respondent Wong reiterated that they were not the same people who had previously been arrested for prostitution.

At some point, Respondent Tso alerted Respondent Wong of a door ajar next door at 4214. Respondent Wong testified that he did not immediately go to the location after being apprised of this, however, it was not long thereafter. Respondent Wong indicated that the first time he entered that location was with Respondent Hamm, and in doing so, he determined that it was secure and there were no suspects present. Respondent Wong agreed that his second entrance into 4214 was for safety concerns, to secure the video. He did not want the owner of the premise having images of him or his team members, and he felt that it was "an urgency that we had to secure that."

After the conclusion of the gambling operation, Respondent Wong agreed that he and his team did not leave the area; they conducted a separate Craig's List operation. He said this operation was conducted in close proximity to the outside of 4216. Respondent Wong testified that the Craig's List operation had been planned during the tactical meeting for April 13, and he described it as being "...always a back up in case you know, we strike out out there that was always the back up plan." When asked why he chose not to secure the location and get a search warrant for 4214, Respondent Wong stated, "Why do I need a search warrant, why do I need a search warrant if I wasn't going to use it as evidence." He agreed that 4214 was not the location for the gambling operation.

In response to the Court's inquiry, Respondent Wong reiterated his belief that if he seizes property that he does not plan to use as evidence, he does not need to obtain a search warrant.

After the camera was seized from 4214, a computer was taken from 4216.

In his tenure with the Department, Respondent Wong acknowledged that he has testified in Criminal Court proceedings. He did not recall ever testifying in Supreme Court. He was aware that the purpose of vouchering evidence is to maintain a chain of custody and to ensure it is safeguarded, and knew that evidence seized may be used in a Criminal Court case. Respondent Wong was also aware that if evidence is obtained improperly, it is subject to suppression.

Regarding his second entry into 4214 with Respondent Tso, Respondent Wong claimed that he informed him of the reason for going into the location, the need to get the computer and the camera. Similarly, on the first entrance with Respondent Hamm, Respondent Wong informed him of the reason for entering, that the door was ajar. Respondent Wong affirmed that on this first entrance, he had no idea that it was the prostitution location. He clarified that nothing alerted him that he was entering a separate address "...because when as soon as you walk out there was an outdoor kitchen it looked like the place you know, linked together. It looked like the same place with two different doors especially with the canvass over just both locations." It was not until the second entrance that he knew it was the prostitution location, a location that was not on the tactical plan for April 13.

With respect to his testimony on direct examination that it is a commanding officer's responsibility to convert seized property for Department use, Respondent Wong

contended that this is per the Administrative Guide. He indicated that he spoke to his commanding officer about converting a laptop for Department use, although he did not know if he was successful in doing so. Respondent Wong did not retrieve the laptop from the Property Clerk when he asked his commanding officer to convert it; he specified that it "came to the office for further investigation." His commanding officer had said that he was going to have it converted although he never reported back if he successfully did so.

Respondent Wong recalled being questioned in an Official Department Interview about other property in his office that had previously been seized during arrests. As for a Panasonic television in his office, he did not know if it had been converted. He explained that the television was in the main office and he moved it into his office. With respect to a fax machine, he did not know if that was converted either. He reiterated that he gave the laptop, a Dell model 9300, to Detective Scotto who he was dating at the time. She was assigned to narcotics, a different command than Respondent Wong's.

Respondent Wong testified that he took his commanding officer's word that he was going to convert the property. He assumed that he was going to do it since he had said he would. However, he never reported back to inform Respondent Wong that he did, in fact, convert the property.

On redirect examination, Respondent Wong testified that the fax machine in his office was used for Departmental business. The television was moved from the main office into Respondent Wong's separate office so that he could conduct training by hooking it up to a VCR. It was not used to watch baseball games or soap operas. Respondent Wong claimed that his commanding officer had "full knowledge" of the

television being used in his office, and said that it was absolutely not used for entertainment purposes.

Regarding the laptop, Respondent Wong contended that it assisted his command in its operations. He explained that he and the narcotics unit worked together, as they provide many kites concerning prostitution and gambling locations. The laptop was not given to Detective Scotto for her personal use, but rather for Department use only.

Respondent Wong affirmed his understanding that seizing property without a search warrant could lead to suppression in a criminal case. He testified that he knew of exigent circumstances to be "[e]mergency situations." In detailing his reasons for seizing the computer and camera on April 13, Respondent Wong testified:

The reason we seized...that computer and the camera it was you know, was in fear of our safety. It wasn't because we wanted to secure it as evidence. I was concerned about my safety as an undercover and the safety of Sergeant Tso being that we are the only two Chinese undercovers in the NYPD Vice Enforcement Division. At the time if we didn't secure this computer and our images had gotten out we could have seriously gotten hurt or even worse. That was the primary reason why we secured that computer.

Respondent Wong said that he was at the gambling location when he saw his picture from the prior day's arrest, a different location than where those arrests had been made. He agreed he and Respondent Tso's pictures had been "transported" to a different location, sent somewhere else than the "original recording location."

Although he admitted in his Official Department Interview that he saw a computer on April 12, he noted that he did not see a camera filming him. Respondent Wong said that the hard drives containing images of him were vouchered. He has "no idea" where those hard drives are today and they were never produced during his criminal case. He learned that the hard drives were brought into IAB, who returned it to Mr.

Ruan. In response to the Court's inquiry, Respondent Wong said that IAB made a "forensic copy" of the hard drives and gave the original back to the owner. He did not know if IAB removed the photographs from the computer.

During re-cross examination, Respondent Wong said that when he gave Detective Scotto the laptop, he never specified that it was seized property from an arrest. He told her that it was his computer.

On examination by counsel for Respondent Tso, Respondent Wong reiterated that he went into the prostitution premise with Respondent Wong. He did not remember telling Respondent Tso the exact reason he was going into this premise, although he may have mentioned that he saw images or a picture. That conversation occurred as the two were making their way into the prostitution location. Respondent Wong said, "We were actually walking out the door I don't know if he heard me I said come with me I saw pictures of us that might be from the previous day." He reiterated that he told Respondent Tso that the computer had to be secured and they needed to locate the camera. He did not recall who actually found the camera but remembered that it was Respondent Tso who removed it, and it was ultimately vouchered.

Before requesting him to accompany him next door, Respondent Wong recollected that Respondent Tso was in the gambling location. Before this, he agreed that Respondent Tso had told him that he had already been in the other location. He did not remember Respondent Tso identifying the other location as the prostitution premise, all he specified was that the door to next door was ajar.

Respondent Wong described the outdoor kitchen as "a whole setup...with refrigerator and it was a canvass over it...custom made stove for commercial type...and it

looked like there was one location when you walk out there.” He clarified that outside, there was an enclosed yard with a canvass cover between the two doors. Both of these doors were within the enclosed kitchen area. There were no markings, letters, names, numbers or any other writing on any of the doors.

On examination by counsel for Respondent Hamm, Respondent Wong acknowledged that he went into the prostitution premise with Respondent Hamm at one point. He reiterated that he asked Respondent Hamm to assist him with his flashlight. At the time Respondent Wong entered with Respondent Hamm, he had not yet seen any images on any computer. His purpose in entering the prostitution premise with Respondent Hamm was to determine if anyone was hiding there; they conducted a safety sweep.

Upon examination by the Court, Respondent Wong did not recall if the backyard had any fencing. He affirmed that the backyards of 4214 and 4216 were similar, and the kitchen “pretty much extended to both sides of the property.”

FINDINGS AND ANALYSIS

On April 12, 2006 the Respondents as part of the Vice Enforcement Squad conducted an operation at a massage parlor at 4214 8th Avenue in Brooklyn, which was allegedly a front for prostitution activities. Respondent Wong, a lieutenant, served as the undercover and met with a male, Ruan, who ran the parlor. Ruan offered sexual services with any one of seven females present at that time, in exchange for money. Wong left the scene, ostensibly to obtain cash. He notified the back-up team who arrested Ruan and the seven females.

The next day, April 13, 2006 the Respondents, again as part of the Vice Enforcement Squad, conducted an operation in an alleged gambling location at 4216 8th Avenue in Brooklyn, which is the adjoining building. In this operation Respondent Tso, a sergeant, entered as the undercover and observed bets being made for money in which the "house" took a cut. He went to the bathroom and called for the backup team.

During the course of and following the gambling arrests the members of the team including Respondents Wong, Tso and Hamm entered the prostitution premises 4214 through a rear door at various times.

Discrepancies in the affidavits filed with the Kings County District Attorney (KCDA) and complaints by Ruan about property taken from his premises led to the arrest and indictment of the three Respondents. Those criminal cases were ultimately dismissed and there was no criminal trial.

The Departmental charges in this case were amended and re-amended. Prior to the instant disciplinary trial a majority of the charges were dismissed by the Department. The remaining charges as to Tso and Hamm involve a single count of trespass. These charges involve separate entries into 4214 8th Avenue on April 13, 2006. Five specifications remain against Respondent Wong including one for trespass.

Specifications Nos. 5 and 8 of the charges against Respondent Wong relate to the seven criminal court complaints filed against the seven alleged prostitutes on April 12, 2006, Specification Nos. 1 and 6 deal with the trespass and removal of property from the prostitution location, 4214 8th Avenue on April 13, 2006. An additional specification, No. 10, deals with the improper use of seized property and is separate from and essentially unrelated to the other matters.

I. The Criminal Court Complaints

The documents that went into evidence are designated as Department exhibits however the actual documents, which are copies of the criminal court filings, were provided by the Respondent's counsel. Department Exhibits 3 through 9 are packets of these documents filed in each of the Criminal Court cases involving the alleged prostitutes.

Each packet relates to one of the alleged prostitutes and contains a criminal court complaint and three attached sheets which are pre-printed forms with check-off boxes. One of those check-off forms is entitled PROSTITUTION & PATRONIZING A PROSTITUTE (PL 230.00 & 230.03) Page 2 of 2. The first substantive part of this form is entitled: STATEMENTS BY THE DEFENDANT. In each case there is a hand written strike through and the letters "NA" indicating that there was no statement. The second substantive issue addressed on that page is entitled: RESISTING ARREST. In each case a strike through and NA indicates that there was no resisting arrest. The third substantive part of this sheet is entitled: PROPERTY. In each case a strike through and NA indicate that no property was recovered from that defendant.

The next substantive issue on that page is entitled: IDENTIFICATION PROCEDURE and in each case there is an indication that on April 12, 2006 at 2030 hours at 4214 8th Avenue, Brooklyn undercover 911422 (Wong) identified the defendant. Each sheet is signed by Lee under an admonition that false statements are punishable under the Penal Law.

Another of these attached sheets is entitled: PROSTITUTION FACT SHEET. It has lines to fill in the name of the defendant, the arrest number, the arresting officer as well as the date, time, and location of the arrest. Another portion asks: "HOW WAS THE DEFENDANT TAKEN INTO CUSTODY?" It suggests that the type of information being sought is whether there was a canvass or a point-out or at the scene. In each case the form is filled out indicating that the arrest was made at the scene as a result a point-out by the undercover. The form also asked about statements made by the defendant, Miranda rights and property seized. These were answered in the negative in each case.

The next form is the most important to this case. It is entitled: SUPPORTING DEPOSITION – PROSTITUTION AND PATRONIZING A PROSTITUTE (PL 230.00 & 230.03) Page 1 of 2. This page purports to be an affidavit by the undercover, in this case UC 911422, which we know is Wong. We also know that Wong did not sign this form and Lee did.¹

After filling in blank lines identifying the deponent, the date, time and location of the incident the form has a series of check off boxes for what the defendant is alleged to have done.

The first box under the heading PROSTITUTION calls for the affiant to check-off that the defendant "agreed or offered to engage in:" Significantly, there are no alternate boxes or blank lines for this item, it is the only choice offered. There are then six other boxes inset under that heading. They are captioned: "fellatio (oral stimulation of the penis)," "coitus (vaginal intercourse)," "manual stimulation of the penis," "anal intercourse (penis-to-anus contact," and "cunnilingus (oral stimulation of the vagina)."

¹ This form is missing in the exhibit regarding defendant Le-Man Li.

The last box has several blank lines to fill in and is captioned, "other (describe sexual conduct)."

In each of the prostitution cases two boxes are marked off, the main box "agreed or offered to engage in" and the box for "manual stimulation of the penis." The last part of that section of the form reads "with me in exchange for" and the Lee put in \$30.00. The next part of the form deals with PATRONIZING A PROSTITUTE and this is crossed out as not applicable in each of these cases.

The form is signed "U/C 911422" and dated April 12, 2006 under an admonition that false statements are punishable under the Penal Law and above a notation that an undercover should sign using an undercover number only.

As noted earlier each packet contains a criminal court complaint. The complaints are typed and each one charges that at approximately 8:30 PM on April 12, 2006, at 4214 8th Avenue in Kings County a particular female defendant was acting in violation of Penal Law Section 230.00, Prostitution. Each complaint contains the following, identical, substantive language: "The deponent is informed by the sworn statement of an undercover police officer SHIELD # 911422 that, at the above time and place, defendant agreed to engage in manual stimulation of the penis with informant in exchange for 30 dollars."

These complaints are signed, again under a notation that false statements are punishable under the Penal Law, by two police officers; an officer Dupont signed six of them and an officer Myers signed one of them. They are dated April 13, 2006. The complaints obviously misstate the facts as Wong was not directly offered these illegal services by the alleged prostitutes themselves but by the alleged pimp Ruan on behalf of

all of them. It would appear that the officers who prepared the complaints based their incorrect conclusion about what transpired on the supporting depositions.²

The first question to be determined is, were the supporting depositions improperly or falsely filled out? Looking at the forms and the choices offered they are in fact accurately filled out. The forms do not contemplate a situation where the operator of a house of prostitution offers the patron a choice of which prostitute's services he would like to avail himself of. The only choices called for on the form are the type of sexual act offered or agreed to.

The problem seems not to be with either Lee, who completed the supporting depositions, or Dupont and Myer, who assumed the supporting depositions reflected facts they are more accustomed to. The problem is with the use of a form that does not reflect a situation that might reasonably be expected to occur or that offered an open ended option in which the deponent could insert a fact pattern to cover a situation like the one Wong encountered on April 12, 2006.

There is no evidence or any reason to believe the boxes on this form would have been filled out any differently had Wong personally signed them. These are apparently the forms used for the crime charged (230.00) and within the context of those forms, they are filled out accurately.

Perhaps more significant is the fact that the KCDA's office was clearly aware of the correct facts. DX 2 is a criminal court complaint against Ruan on charges of

² The Department did not conduct Official Department Interviews with either of these officers nor were they called as witnesses nor did the Department appear to have been aware of the existence of these complaints prior to this trial.

promoting prostitution. The deponent is Lee and it is on information and belief provided by the undercover officer (Wong). The complaint states that:

[T]he informant rang a bell to the above mentioned location (4214 8th Avenue) and defendant let informant into the above mentioned location and informant observed that Lei Li arrest no. K06630101, Hua Chang arrest no. K06630116, and Mei Cheng arrest no. K0660111, Tian Lang arrest no K06630118, and Linda Wang were sitting in the waiting room inside the above mentioned location.

Deponent is further informed by informant that the informant asked defendant if informant could get anything else besides a massage and informant asked defendant if the girls could do a hand job (oral stimulation of the penis) and defendant told informant that the girls could do a hand job for \$30.00 extra and informant asked defendant if informant could choose between the girls and defendant said yes.

Deponent states that deponent recovered keys to the above mentioned location from Defendant's person.

Deponent further states that deponent recovered baby oil, KY jelly and condoms from inside the above mentioned location.

This document is dated April 13, 2006 and properly signed by Lee. Indeed time stamps on the document indicate that it was prepared just after 9:00 in the morning on that date. Except for a careless error where it describes a "hand job" as "oral stimulation of the penis" and the fact that two of the prostitutes arrested were not mentioned, it accurately reflects what Wong testified happened at the scene on April 12, 2006 and what he told Lee about the incident.

Moreover another document in evidence is captioned COMPLAINT ROOM SCREENING SHEET and is on the letterhead of the KCDA's office (RX A). It contains

the same information as the abovementioned complaint against Ruan and indicates that Lee was interviewed but that the undercover officer (misidentified as 91142 – it should be 911422) was not interviewed.

Consequently there is ample evidence that the KCDA was on notice as to the actual facts regarding the arrests of the alleged prostitutes and that Lee had been interviewed but Respondent Wong had not been interviewed. Further it is clear that Lee provided an accurate narrative to the KCDA and that the error in preparing the complaints against the prostitutes was not the result of any misconduct on his part, let alone on the part of Respondent Wong.

The specifications herein do not charge error. They charge serious and intentional misconduct. Specification No 5 charges that, “[S]aid lieutenant on seven (7) separate occasions, knowing that a written instrument to be offered or presented to the Kings County District Attorney’s Office contained false information, did allow said instrument to be presented to the Kings County District Attorney’s Office and become a part of the records of said office.”

Specification No. 8 alleges that “[S]aid lieutenant on seven (7) separate occasions allowed a false punishable [sic] written statement to be created when he knowingly made a false statement, which was memorialized in a written instrument presented to the Kings County District Attorney’s Office.”

No such things occurred and Respondent Wong is found not guilty of these specifications.

II Trespass

The testimony indicates that there were three entries into the rear of 4214 8th Avenue on April 13, 2006.

The first entry was by Cheregotis and Tso who went into the open rear door to see if anyone had gone in there to hide. Even the Department conceded in its closing argument that this entry constituted reasonable police action and Cheregotis did not face either criminal or disciplinary charges. Consequently it must be assumed that the specification of trespass as to Tso does not relate to this entry.

The Tso/Cheregotis entry was limited because the premises were very dark and Cheregotis did not have a flashlight. Some time later Wong entered with Hamm who had a flashlight. This was the only entry by Hamm and he is charged with trespass. There is no question that Respondent Wong, a lieutenant directed Hamm a police officer, to make this entry.

While it was unclear how much time passed after the Tso/Cheregotis entry before this Wong/Hamm entry occurred, the available evidence indicates that its purpose was the same – to see if someone had fled into the building.

How the first entry was acceptable yet another, for the same purpose, was not, is not adequately explained. The first entry was hampered by a lack of light and there was indication that noises in the premises might have led to the belief that there was a fleeing or hidden perpetrator inside. Indeed this Court can see no substantive difference between the two entries, beyond the fact that the second time they were not stumbling helplessly in the dark and that they were able to go further in and determine the source of the noise. There is no clear legal difference between these two entries. Because this Wong/Hamm

entry was as appropriate as the earlier entry made by Tso and Cheregotis, an entry the Department agrees was proper, Respondent Wong is found not guilty with regard to this entry.

Additionally as to Hamm it should be noted that he had no choice in the matter. Although it is not claimed that command words were used, the directive by Lieutenant Wong to Police Officer Hamm was not a casual request, it was an order and Hamm had to obey.

In this case Hamm had no reason to refuse an apparently legal order but if Hamm were to be found guilty of trespass for following this order it could create confusion as such a holding would run counter to the accepted Department practice which requires that a subordinate officer obey the order of a superior officer.³ Respondent Hamm is found not guilty.

Wong testified that before he entered the premises 4214 through the rear door he did not realize that it was the same location as the prostitution raid of the day before. Hamm testified that as he entered he realized that this was the same door he had secured the previous evening. He noted that someone had been there since the raid and shared that information with Wong. Wong gave uncontradicted testimony that as he left the premises 4214 he noticed wires going back to the gambling location, 4216. He went back to that location to investigate further. There he discovered that the wires went to a computer on a desk in the gambling location. He also found a portable hard drive and

³ See, for instance Disciplinary Case No. 78437/02 signed 10/27/04. In that case an officer was found guilty of refusing to obey an order with which he disagreed. That officer received a 30 day suspension and was placed on dismissal probation. That decision noted: "By deciding which orders he would obey the Respondent treaded on a slippery slope that would undermine the leadership and viability of the Department if unchecked."

one of the officers told him that one of the defendants involved in the gambling operation had tried to hide it when they first entered. He hooked up the hard drive to the computer and saw pictures of himself and Tso taken the day before during the prostitution raid.

This led to a third entry into 4214 when Wong accompanied by Tso went back into that location and followed the wire to a video surveillance camera and a computer.

Wong directed Tso to unscrew the camera which was taken and vouchered along with two computers, one taken from 4214 and the one at the end of the wire in 4216.

This entry is different. The claim of exigent circumstance was bandied about so often and so loudly in regard to this entry that one might think that mere repetition of the term would make it so. But there was no evidence before this Court of exigent circumstances regarding this entry; no fleeing criminals, no concern about destruction of evidence and no imminent danger to anyone.

This Court recognizes that the dissemination of the identity of undercover officers does pose a risk to their safety but the way this situation was described, the photos had already been disseminated and thus it was water under the bridge. There was no testimony or evidence that there was concern about ongoing dissemination of the photos from that location at that moment and if there was, it might have been addressed by disabling the computer in 4216. If the concern was future dissemination, that could have been addressed by securing the premises and seeking appropriate legal assistance. Indeed, there was ample opportunity for Lieutenant Wong to consult a higher ranking officer for guidance or to seek counsel from the office of the District Attorney or this Department's own Legal Bureau.

It could be argued, the entry into 4214 by Respondents Wong and Tso was justified as conduct “performed by a public servant in the reasonable exercise of his official powers, duties or function,” (Penal Law 35.05). It is unnecessary to consider that possible defense. The removal of the security camera and computer from 4214 could not be done without a court order and as a police lieutenant, Respondent Wong should have been aware of this. Indeed his testimony indicates that he was, in fact, aware of the need for a court order to properly seize this property. The directive by Wong to Tso to remove the camera was unauthorized.⁴

At the point in which Wong gave the directive to remove the camera any colorable authority he and Tso had to remain in the premises 4214 8th Avenue evaporated. Their presence in that location at that point was certainly a situation in which he “remained unlawfully” in contravention of Penal Section 140.05 and at this point Respondent Wong was responsible for Tso’s conduct under an “acting in concert” theory as Tso was acting at his direction.⁵ Moreover Respondent Wong’s knowingly unauthorized conduct constituted “conduct prejudicial” in violation of the Patrol Guide, something also charged in this specification. Consequently Respondent Wong is found guilty of Specification No. 1.

With regard to Respondent Tso’s responsibility, the issue is a bit more complicated. Tso is a sergeant and however pleasantly or informally Wong put it to him he was in fact under orders to remove the camera. Might Tso have suggested to Wong that he consult with higher ups or lawyers? That would have been a good idea but Tso is

⁴ Tso testified that he did not remove the computer from 4214 and there is no testimony as to who did. Tso did testify that he removed the camera.

⁵ He was also responsible for the entry by whoever it was who removed the computer from 4214.

not charged with failing to make good recommendations. Moreover the order was not obviously or patently illegal nor did it involve any harm to a person or persons. As with Hamm he had no basis upon which to challenge the order and to condone refusing an order by finding Tso guilty would create confusion by running counter to the accepted Department practice that requires a subordinate officer to obey a superior officer. Tso is found not guilty of trespass because he was acting under orders.

Specification No. 6 charges Respondent Wong with Official Misconduct in violation of Penal Law section 195.00 in relation to the taking of the camera and computer equipment from the 4214 8th Avenue location on April 13, 2006. The specification notes that these devices allegedly had “recorded images of an arrest made by said Lieutenant and his field team at that location the day before.”

Certainly the language of this specification harks back to the original, discredited, theory of this case wherein it was believed that the prostitution arrests of April 12, 2006 were somehow tainted and that the taking of this digital recording equipment was for the purpose of destroying evidence of those improper arrests.

Those charges were dismissed and there is no evidence that the arrests of April 12, 2006 were tainted. Quite the contrary, the uncontested evidence before this Court indicates that the arrest of Ruan and the seven alleged prostitutes, constituted valid and proper police action. This alone however, does not resolve the issue of whether Respondent Wong engaged in official misconduct.

The seminal case interpreting the Official Misconduct statute is People v. Feerick, 93 N.Y.2d 433 (1999), which upheld convictions for this crime. That case involves a warrantless entry by a police lieutenant and several police officers into premises to

recover a lost police radio. While at first blush this may seem to be similar to the instant case. The specifics of both events indicate that they are substantively different and legally distinguishable. In the Feerick case the officers forcibly entered an occupied apartment with guns drawn. During the course of this improper entry, among other things, the officers woke up and then restrained the occupants, ransacked the apartment and threatened the occupants with arrest unless they helped procure the lost radio. They also conducted an illegal search of a person who entered the apartment.

They then proceeded to a second occupied apartment and made a second illegal forced entry at gunpoint. They also falsely completed official reports and failed to make arrests regarding drugs that were recovered.

In addressing the issue of the meaning of "benefit" under the Penal Law the Court of Appeals reviewed the relevant history of the statute and examined the application of similar statutes in other states and jurisdictions. The Feerick court concluded that the "benefit" is not limited to corrupt acts but could include any gain or advantage. It explained the statute thusly:

[T]he fact that the New York statute is not as broadly conceived as the Model Penal Code provision because New York additionally includes "intent to obtain or deprive another person of a benefit" as a necessary element, does not mean that the New York statute is different in kind rather than degree. As the Bartlett Commission commentary indicates, the inclusion of this *mens rea* requirement was not to limit in any substantive way the types of conduct that would be culpable, but instead was there to protect honest error from criminal prosecution. Proof that a public servant intended to receive a benefit along with proof that he or she also knew the acts were "unauthorized" *negates* the possibility that the misconduct was the product of inadvertence, incompetence, blunder, neglect or dereliction of duty, or any other act, no matter how egregious, that might more properly be considered in a disciplinary rather than a criminal forum. The statute thus erects high barriers to prevent a criminal court from reviewing mere errors of judgment on the part of public officials, Feerick, 93 N.Y.2d at 448.

It is therefore necessary to examine the full context of this case in contrast to that of the Feerick case. In that case the lieutenant (Feerick) had discussed the matter with a superior officer and was specifically told not to enter the apartment and that a warrant was necessary. Indeed, the Court heavily relied on that fact and other obvious misconduct to sustain the conviction noting:

The evidence supported the conclusion that defendants knew that the unlawful entering and searching of Jackson's apartment and the detention of its occupants without their consent and without a warrant was an "unauthorized exercise" of police functions. Defendant Feerick had been specifically directed by her commander to seek a warrant. Defendants, however, decided to proceed on their own mission without one. Also, there can be little question that defendant DeVito knew that entering false information on New York City police records was unauthorized, Id. at 449.

Thus, the facts in Feerick are distinguished both by the level of conduct engaged in by the officers involved and by the level of knowledge regarding the legal authority to take the action taken. The conduct of removing the property from an empty store is far less egregious than the conduct of the officers in Feerick and the need to obtain a warrant, although known or knowable, was less obvious to Respondent Wong than it was to Feerick.

If, as the Court of Appeals has said, assessing the facts in a case of official misconduct is a matter of "degree" this Court finds that the "high barrier" has not been crossed in the instant case. Consequently Respondent Wong is found Not Guilty of Specification No. 6.

III. Conversion of Seized Property

Specification No. 10 charges Respondent Wong with engaging in conduct prejudicial to the good order, efficiency and discipline of the Department in that he “failed to follow proper procedures related to the Department usage of invoiced/seized property.”

The testimony in this case identified three pieces of property which were not properly converted; a television, a fax machine and a laptop computer. The television was originally in the squad’s main office and was later moved to Respondent Wong’s office. The laptop computer was given by the Respondent Wong to another member of the service, Victoria Scotto, a police officer who was assigned to Brooklyn South Narcotics and who had some kind of personal relationship with Respondent Wong. There is no evidence that any of this property was used for anything other than departmental purposes.

The exact nature of the relationship between Respondent Wong and Scotto is not detailed in the record. Scotto, in her Official Department Interview described Respondent Wong as her “boyfriend.” She indicated that the relationship ceased when she was modified as a result of this incident.

With regard to the laptop computer Scotto stated:

He had it at my house and he was using it at my house and I commented on it that oh this is what they use at work they put their work in it and he said to me you can borrow it if you want but this is my work computer and when I need it back you have to give it back to me so I borrowed it.

With regard to the procedures in place to allow for the use of seized property for departmental use Respondent Wong offered in evidence Administrative Guide Procedure

No. 313-04, (RX C) entitled: USE OF PROPERTY (OTHER THAN VEHICLES) HELD BY PROPERTY CLERK. The procedure provides that "When property held by the Property Clerk would aid performance of police duty" the "Commanding Officer" is to forward a request to utilize such property to the "appropriate Deputy Commissioner, bureau chief or counterpart." Respondent Wong asserts that because he was not the commanding officer he cannot be held accountable for the failure to have the property properly converted to departmental usage.

In this context it should be noted that the Patrol Guide and the Administrative Guide are just that: guides. It is impossible to anticipate every situation that will arise in the complex environment of New York City and in the lives and responsibilities of members of the service. As such, neither the Patrol Guide nor the Administrative Guide is subject to strict interpretation. Moreover, the Respondent is not charged in this specification with violating the Administrative Guide but with engaging in "conduct prejudicial to the good order, efficiency, or discipline of the Department" under section 203-10 of the Patrol Guide.

In interpreting that section the Police Commissioner has noted that "The provision's purpose is to prohibit conduct that, although not specifically mentioned in the Patrol Guide or other Department rules and regulations, is clearly wrong and contrary to the training and practices of a reasonable police officer," Disciplinary Case Nos. 75201/99 75202/99 & 75203/99.

In this case Respondent Wong, a lieutenant, took a seized television into his own office. In another instance he allowed a police officer, several ranks below him, who he was engaged in a personal relationship with, to possess and use a seized laptop computer.

Even if the use of this property was for the benefit of the Department it created a significant appearance of impropriety. Under those circumstances, in particular, Respondent Wong had an obligation to make sure that all of the proper procedures had been complied with and that *approval* had been granted before he utilized the seized property.

Additionally Respondent Wong served as the Integrity Control Officer so that he had an additional responsibility in regard to insuring that there was compliance with the rules set forth in the Administrative Guide. He had a responsibility to make sure that proper authorization was granted before property was used. Consequently, Respondent Wong's conduct in utilizing the television, the laptop and the fax machine, without making sure that approval had been granted, constituted conduct prejudicial and Respondent Wong is found guilty of Specification No. 10.

PENALTY

In order to determine an appropriate penalty, Respondent Wong's service record was examined, see *Matter of Pell v. Board of Education*, 34 N.Y.2d 222, 240 (1974). Respondent Wong was appointed to the Department on April 2, 1995. Information from his personnel folder that was considered in making this penalty recommendation is contained in the attached confidential memorandum.

The Department has recommended termination. That penalty and or some form of separation would have been warranted by the original charges which assumed that Wong had been involved in making false arrests, filing false affidavits with the District Attorney's office and the Criminal Court as well as arranging what amounted to a break-

in at the alleged house of prostitution to retrieve video evidence of those past crimes and cover them up.

The charges which this Respondent has been found guilty of are serious but they involve misjudgments rather than corruption. These misjudgments did not involve personal gain or moral turpitude and do not seem to merit termination.

Having said that it is important to look at what the Respondent Wong did in fact do. It is interesting to note that both charges involve a rather cavalier attitude toward the use of the police power to take property, on the one hand and to convert property confiscated under police powers to departmental use on the other.

What is particularly frustrating about this case is that there seems to have been a basis for seizing the video camera and computers as instrumentalities used in furtherance of a criminal enterprise. Had Respondent Wong only sought appropriate legal guidance that might have occurred. The fact that wires ran from one building to the other and that both had a single backyard with an outdoor kitchen in the middle of and apparently serving both, indicates a unified criminal enterprise conducting both gambling and prostitution with mutual protection mechanisms. The entry likely could have been made pursuant to court order and the property legally seized.

During his testimony Wong complained about the fact that IAB returned the computer with, he believes, the pictures of him, to Ruan. But it was the failure to properly seize this evidence that mandated its return, not any pusillanimous behavior on the part of IAB as Wong implied.


Further during his testimony Wong indicated that he only saw the need to apply for a search warrant if the property was to be used as evidence at trial but implied that he

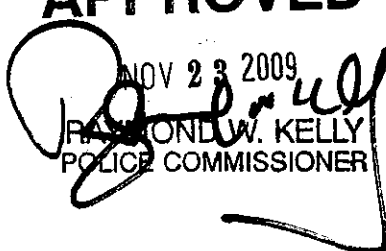
could simply seize the property in question without a warrant as he did not intend to use it at trial. This is obviously a serious misunderstanding of the law. Indeed had Wong been more meticulous in his approach toward the seizure of property he might have avoided the calamity suffered by himself and his co-Respondents by being indicted because the KCDA misperceived their actions.

While this Court is limited in recommending penalties to those listed in the Administrative Code, some re-training on these issues seems appropriate.

As to the penalty, I recommend that Respondent Wong forfeit the 32 days time already served on suspension.

Respectfully submitted,


Martin G. Karopkin
Deputy Commissioner-Trials

APPROVED
NOV 23 2009

RAYMOND W. KELLY
POLICE COMMISSIONER

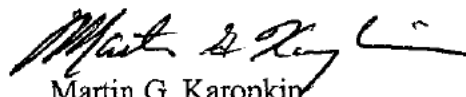
POLICE DEPARTMENT
CITY OF NEW YORK

From: Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
LIEUTENANT STEPHEN WONG
TAX REGISTRY NO. 911422
DISCIPLINARY CASE NO. 82154/06

In 2008, Respondent Wong received an overall rating of 4.0 “Highly Competent” on his annual performance evaluation. In 2006 and 2007, he received overall ratings of 3.5 “Highly Competent/Competent.” He has received one medal for Meritorious Police Duty and two medals for Excellent Police Duty. [REDACTED]
[REDACTED]

Respondent Wong has a prior formal disciplinary history. In 2003, he forfeited nine vacation days for failing to safeguard his service firearm.

For your consideration.


Martin G. Karopkin
Deputy Commissioner – Trials

**DISPOSITION OF CHARGES**

PD 468-142A (Rev. 1-06)

CASE NO.

82155/06

BOOK & PAGE NO.

1 of 2

PERSONNEL ORDER NO.

SPECIFICATIONS AGAINST

RANK/SURNAME

FIRST

M.I.

COMMAND

Sergeant Tso, Kwun

Housing Brooklyn

SHIELD NO.

3664

TAX REGISTRY NO.

907476

DATE APPOINTED

February 28, 1994

RANK/NAME OF COMPLAINANT

Captain James Mavricos

COMMAND

Internal Affairs Bureau Group #41

DATE OF CHARGES

August 21, 2006

DATE TRIAL COMMENCED

June 24, 2009

DATE TRIAL CONCLUDED

June 25, 2009

TRIAL COMMISSIONER

Honorable Martin G. Karopkin

SPECIFICATIONS	DISPOSITION	RECOMMENDED PENALTY
		PLEA <input type="checkbox"/> TRIAL <input checked="" type="checkbox"/>
1. Said Sergeant Kwun Tso, while assigned to Vice Enforcement Squad, on or about April 13, 2006, at a location in Kings County known to this Department, knowingly entered or remained unlawfully in or upon the premises owned by Mr. Hui-Ru-Ruan. (As Amended)	NOT GUILTY	It is recommended that the Responden be found Not Guilty.
2. Said Sergeant Kwun Tso, while assigned to Vice Enforcement Squad, on or about April 13, 2006, at a location known to this Department, Kings County, having no right to do so nor any reasonable ground to believe that he had such right, did intentionally damage property of another person, known to the Department.	DISMISSED	
3. Said Sergeant Kwun Tso, while assigned to Vice Enforcement Squad, on or about April 13, 2006, at a location known to this Department, Kings County, with intent to obtain a benefit or deprive another person of a benefit, did commit an act relating to his office but constituting an unauthorized exercise of his official functions, knowing that such act was unauthorized.	DISMISSED	

Reviewed by Deputy Commissioner of Trials


DEPUTY COMMISSIONER08/24/09
DATE

Police Commissioner's Approval:

☒ Approved☐ Disapproved☐ Other Action (Describe)
POLICE COMMISSIONER11/23/09
DATE

**DISPOSITION OF CHARGES**

PD 468-142A (Rev. 1-06)

CASE NO.	82155/06
BOOK & PAGE NO.	2 of 2
PERSONNEL ORDER NO.	


SPECIFICATIONS AGAINST RANK/SURNAME Sergeant Tso, Kwun		FIRST M.I.	COMMAND Housing Brooklyn
SHIELD NO. 3664	TAX REGISTRY NO. 907476		DATE APPOINTED February 28, 1994
RANK/NAME OF COMPLAINANT Captain James Mavricos			COMMAND Internal Affairs Bureau Group #41
DATE OF CHARGES August 21, 2006	DATE TRIAL COMMENCED June 24, 2009		DATE TRIAL CONCLUDED June 25, 2009

TRIAL COMMISSIONER

Honorable Martin G. Karopkin


SPECIFICATIONS	DISPOSITION	RECOMMENDED PENALTY PLEA <input type="checkbox"/> TRIAL <input checked="" type="checkbox"/>
4. Said Sergeant Kwun Tso, while assigned to Vice Enforcement Squad, on or about and between April 13, 2006 and July 29, 2006, having taken property into custody, did thereafter fail and neglect to prepare a Property Clerk's Invoice worksheet (PD521-141a) as required.	DISMISSED	See Page No. 1.
5. Said Sergeant Kwun Tso, while assigned to Vice Enforcement Squad, on or about and between April 13, 2006 and July 29, 2006, did wrongfully engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said police officer failed to follow proper procedures related to the conversion of invoiced/seized property.	DISMISSED	
6. Said Sergeant Kwun Tso, while assigned to Vice Enforcement Squad, on or about and between April 13, 2006 and July 29, 2006, did wrongfully engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said police officer used seized property without properly vouchering said property.	DISMISSED	

Reviewed by Deputy Commissioner of Trials

 08/24/09
DEPUTY COMMISSIONER DATE

Police Commissioner's Approval:

- ☒ Approved
☐ Disapproved
☐ Other Action (Describe)

 11/23/09
POLICE COMMISSIONER DATE

**DISPOSITION OF CHARGES**

PD 468-142A (Rev. 1-06)

CASE NO.	82152/06
BOOK & PAGE NO.	1 of 2
PERSONNEL ORDER NO.	

SPECIFICATIONS AGAINST RANK/SURNAME Police Officer Hamm, Yuseff		FIRST M.I.	COMMAND Housing Borough Bronx/Queens
SHIELD NO. 21494	TAX REGISTRY NO. 928455		DATE APPOINTED July 02, 2001
RANK/NAME OF COMPLAINANT Captain James Mavricos			COMMAND Internal Affairs Bureau Group #41
DATE OF CHARGES August 21, 2006	DATE TRIAL COMMENCED June 24, 2009	DATE TRIAL CONCLUDED June 25, 2009	
TRIAL COMMISSIONER Honorable Martin G. Karopkin			

SPECIFICATIONS	DISPOSITION	RECOMMENDED PENALTY
		PLEA <input type="checkbox"/> TRIAL <input checked="" type="checkbox"/>
1. Said Police Officer Yuseff Hamm, while assigned to Vice Enforcement Squad, on or about April 13, 2006, at a location in Kings County known to this Department, knowingly entered or remained unlawfully in or upon the premises owned by Mr. Hui-Ru-Ruan. <i>(As Amended)</i>	NOT GUILTY	It is recommended that the Respondent be found Not Guilty.
2. Said Police Officer Yuseff Hamm, while assigned to Vice Enforcement Squad, on or about April 13, 2006, at a location known to this Department, Kings County, having no right to do so nor any reasonable ground to believe that he had such right, did intentionally damage property of another person, known to the Department.	DISMISSED	
3. Said Police Officer Yuseff Hamm, while assigned to Vice Enforcement Squad, on or about April 13, 2006, at a location known to this Department, Kings County, with intent to obtain a benefit or deprive another person of a benefit, did commit an act relating to his office but constituting an unauthorized exercise of his official functions, knowing that such act was unauthorized.	DISMISSED	

Reviewed by Deputy Commissioner of Trials

Martin G. Karopkin
DEPUTY COMMISSIONER

08/24/09
DATE

Police Commissioner's Approval:

- ☒ Approved
☐ Disapproved
☐ Other Action (Describe)

Reginald L. Williams
POLICE COMMISSIONER

11/23/09
DATE

**DISPOSITION OF CHARGES**

PD 468-142A (Rev. 1-06)

CASE NO.	82152/06
BOOK & PAGE NO.	1 of 2
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TRIAL COMMISSIONER Honorable Martin G. Karopkin			

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Reviewed by Deputy Commissioner of Trials

Martin G. Karopkin
DEPUTY COMMISSIONER

08/24/09
DATE

Police Commissioner's Approval:

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☐ Disapproved
☐ Other Action (Describe)

Reginald L. Williams
POLICE COMMISSIONER

11/23/09
DATE

**DISPOSITION OF CHARGES**

PD 468-142A (Rev. 1-06)

CASE NO.	82152/06
BOOK & PAGE NO.	2 of 2
PERSONNEL ORDER NO.	

SPECIFICATIONS AGAINST RANK/SURNAME FIRST M.I.		COMMAND
Police Officer Hamm, Yuseff		Housing Borough Bronx/Queens
SHIELD NO. 21494	TAX REGISTRY NO. 928455	DATE APPOINTED July 02, 2001
RANK/NAME OF COMPLAINANT Captain James Mavricos		COMMAND Internal Affairs Bureau Group #41
DATE OF CHARGES August 21, 2006	DATE TRIAL COMMENCED June 24, 2009	DATE TRIAL CONCLUDED June 25, 2009

TRIAL COMMISSIONER

Honorable Martin G. Karopkin

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4. Said Police Officer Yuseff Hamm, while assigned to Vice Enforcement Squad, on or about and between April 13, 2006 and July 29, 2006, having taken property into custody, did thereafter fail and neglect to prepare a Property Clerk's Invoice worksheet (PD521-141a) as required.	DISMISSED	See Page No. 1.
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6. Said Police Officer Yuseff Hamm, while assigned to Vice Enforcement Squad, on or about and between April 13, 2006 and July 29, 2006, did wrongfully engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said police officer used seized property without properly vouchering said property.	DISMISSED	

Reviewed by Deputy Commissioner of Trials

Martin G. Karopkin
DEPUTY COMMISSIONER

08/24/09
DATE

Police Commissioner's Approval:

- ☒ Approved
☐ Disapproved
☐ Other Action (Describe)

Regina L. L...
POLICE COMMISSIONER

11/23/09
DATE